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Approved For Release 2005/02/10 : CIA-RDP75-00770R000100110001-1

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

EERIK HEINE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	Civil Action No. 15952
JURI RAUS,	)	
	)	
Defendant.	)	
	)	

CORRECTION TO AFFIDAVIT DATED APRIL 1, 1966

Richard Helms, Deputy Director of Central Intelligence, being  
first duly sworn, deposes and says that:

Paragraph 11, line 3, of the Affidavit submitted by me on  
April 1, 1966 in the above Civil Action should be corrected in the following  
respect:

Change 403d to read 403(d).

\_\_\_\_\_  
Richard Helms

STATE OF VIRGINIA     )  
                          ) ss.  
COUNTY OF FAIRFAX    )

Subscribed and Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 1966.

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_.

(SEAL)





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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

EERIK HEINE :  
v. : CIVIL NO. 15952  
JURI RAUS :

Filed: December 8, 1966.

Ernest C. Raskauskas and Robert J. Stanford, of Washington,  
D. C., for plaintiff.

Paul R. Connolly, E. Barrett Prettyman, Jr., and Hogan & Hartson,  
of Washington, D. C., for defendant.

Lawrence R. Houston, General Counsel, Central Intelligence Agency,  
of Washington, D. C., and Thomas J. Kenney, United States Attorney,  
of Baltimore, Maryland, for the United States.

Thomsen, Chief Judge

This is an action for slander in which defendant's  
motion for summary judgment asserts the defense of absolute  
privilege on the ground that when he made certain defamatory  
statements he was acting within the scope and course of his em-  
ployment by the Central Intelligence Agency on behalf of the  
United States, and had been instructed by the CIA to warn members  
of Estonian emigre groups that plaintiff was a dispatched Soviet  
intelligence operative, a KGB agent.

Defendant's motion for summary judgment raises a number  
of substantive and procedural questions. The matter is compli-  
cated by the fact that the United States has asserted its privi-  
lege against disclosing state secrets.

I.

The complaint, filed in November 1964, alleges that plaintiff, a citizen of Canada, has never been a Communist; that he had been active in various Estonian emigre groups, and had earned part of his livelihood by exhibiting a motion picture, entitled "Creators of Legend" which portrays brutalities committed by the Communists in Occupied Estonia, and by delivering lectures based on his experiences as a prisoner in Russian prison camps and as a guerilla fighter; that on three occasions, in November 1963, July 1964 and September 1964, respectively, defendant defamed plaintiff by stating that "Eerik Heine is a Communist" and "Eerick Heine is a KGB Agent", the statements being understood as referring to plaintiff as a "Communist Secret Agent"; that the statements were untrue, were known to defendant to be untrue, were slanderous and defamatory per se, and were made maliciously. Plaintiff demands general and punitive damages.

In the original answer, filed in January 1965, defendant stated that he was National Commander of the Legion of Estonian Liberation, Inc. and admitted that on the three occasions specified in the complaint he had said, in the presence of others, that he "was in possession of responsible information received by him from an official agency of the United States Government to the effect that the plaintiff was a Soviet agent or collaborator and on that account should not receive the cooperation of the Legion and its branches during the plaintiff's tours of the United States." The answer asserted that the statements were true, and were made "only upon privileged occasions to persons privileged to receive them, and each such statement was made without express

or actual malice in furtherance of the defendant's legitimate duties, responsibilities and offices"; that "the maintenance of the present action by the plaintiff is contrary to the interest and public policy of the United States"; and that "the defendant was privileged to speak of the plaintiff as he did, since the defendant was acting as an appropriate officer of the Estonian Liberation movement". In the original answer defendant did not raise the defense of absolute privilege, because he was bound by a secrecy agreement<sup>1</sup> not to divulge such information unless

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1/ The Secrecy Agreement, so headed, was executed in May 1963, more than five months before the first alleged defamatory statement. It reads as follows:

"1. I recognize that in connection with my confidential relationship with the Central Intelligence Agency (CIA) I will become apprised of information relating to the national defense and security and particularly information of this nature relating to intelligence sources, methods, and operations, and specifically operations, sources, methods, personnel, fiscal data, or security measures. I realize that in addition to the actual information that comes into my possession because of my relationship with CIA it will be possible for me to deduce implications from such information. I understand that unlawful disclosure of this information or its implications could seriously jeopardize the national interests and security of the United States of America.

"2. I solemnly swear, without mental reservation or purpose of evasion, and in the absence of duress, as a citizen of the United States of America that I will never divulge, publish or reveal, by writing, word, conduct or other means, any information or its implications of the character set forth above, including the fact or content of my meeting with representatives of CIA, to any person unless I have been specifically authorized, in writing, to do so by a representative of CIA. I understand that the term 'any person' includes, among others, friends, relatives, spouses, employers or representatives of any State or Federal Agency, excepting only CIA representatives who have been specifically referred to me by the representatives of that Agency whom I have met on the occasion of signing this secrecy agreement.

"3. I understand that this agreement does not impose

specifically authorized to do so by a representative of the CIA, and because his counsel had been instructed by counsel for the CIA not to raise that defense.

In February 1965 defendant took plaintiff's deposition. In November 1965 plaintiff served on defendant 424 interrogatories, which defendant moved to strike on two grounds: (1) that their number was oppressive, and (2) that many of them inquired of privileged matter. See Rules 26(b) and 33, F. R. Civ. P. At the same time defendant filed a motion for summary judgment, based upon an affidavit of Richard Helms, then Deputy Director of Central Intelligence, that when defendant spoke concerning plaintiff on the occasions referred to in the complaint he was in possession of information furnished him by the CIA and was acting within the scope and course of his employment by that agency on behalf of the United States.

At a hearing on the motion and the exceptions then pending, the Court ruled: that defendant's original answer did not set up the defense of absolute privilege, but that leave should be granted

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1/ (continued)

any restriction upon me or my employer with regard to information acquired by me or my employer in the regular conduct of business and not as a result of my relationship with CIA. The mere fact that such information is of interest to CIA does not subject it to the confidential treatment prescribed by this secrecy agreement.

"4. I fully realize that intention or negligent violation of this secrecy agreement may subject me to prosecution under the Espionage Laws of the United States of America (18 USC sec. 793 and 794)."

him to file an amended answer asserting that defense;<sup>2</sup> that defendant should not be required to answer the 424 interrogatories, but that plaintiff should be allowed discovery, so far as permitted by law, on the issue of absolute privilege claimed by defendant; that a more detailed affidavit should be filed by the Deputy Director of Central Intelligence, or plaintiff should be allowed to proceed with reasonable discovery from him; and that if the Government wished to assert a privilege against disclosing state secrets, the United States Attorney should be present and such privilege should be formally asserted.

Thereafter a much more detailed affidavit by Helms, dated April 1, 1966, was filed. After stating his authority and familiarity with the facts the Deputy Director stated:

"4. During the periods of time specified in paragraphs 5, 6, and 7 of the complaint, the defendant, Juri Raus, was employed as a highway research engineer for the Office of Research and Development, Bureau of Public Roads, United States Department of Commerce.

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2/ Plaintiff contends that defendant waived or is estopped to assert the defense in this case because he did not raise it in his original answer, and took the deposition of plaintiff on the merits. Plaintiff therefore moved the Court to strike defendant's motion to amend his answer and assert the defense. Plaintiff's motion was overruled, and the Court adheres to its ruling, because it is quite clear from the testimony of defendant's counsel that defendant was refused permission by the CIA to raise the defense in his original answers, and that he was bound by his secrecy agreement, set out in note 1, above. The Agency's reluctance to identify an employee's covert activity is understandable; moreover, the delay of the CIA in granting permission to assert the defense should not be charged to defendant. Under the circumstances shown by the record there was no undue delay, bad faith or dilatory action chargeable to defendant, and no such prejudice to plaintiff as would prevent the allowance of the amendment. See Rule 15, F. R. Civ. P.

"5. During the same periods of time, the defendant was the National Commander of the Legion of Estonian Liberation, Inc., and was familiar with Estonian emigre activities.

"6. For a number of reasons, including his past history and his position as National Commander of the Legion of Estonian Liberation, the defendant has been a source to this Agency of foreign intelligence information pertaining inter alia to Soviet Estonia and to Estonian emigre activities in foreign countries as well as in the United States.

"7. The Central Intelligence Agency has employed the defendant from time to time -- concurrently with his duties on behalf of the Bureau of Public Roads -- to carry out specific assignments on behalf of the Agency. Defendant was so employed on those occasions specified in paragraphs 5, 6 and 7 of the complaint.

"8. On those occasions specified in paragraphs 5, 6, and 7 of the complaint, the defendant was furnished information concerning the plaintiff by the Central Intelligence Agency and was instructed to disseminate such information to members of the Legion so as to protect the integrity of the Agency's foreign intelligence sources. Accordingly, when Juri Raus spoke concerning the plaintiff on the occasions about which complaint is made, he was acting within the scope and course of his employment by the Agency on behalf of the United States.

"9. On May 29, 1963, prior to the occasions specified in paragraphs 5, 6 and 7 of the complaint, the defendant signed a Secrecy Agreement with the Agency, a copy of which is attached, which Agreement is still in full force and effect.

"10. After a personal review of the Agency's activities pertaining to Eerik Heine, I have reached the judgment on behalf of the Agency that it would be contrary to the security interests of the United States for any further information pertaining to the use and employment of Juri Raus by the Agency in connection with Eerik Heine to be disclosed, other than the disclosures already made in the defendant's answer, in my own affidavits, and the defendant's affidavits, which I have read.

"11. Acting pursuant to the authority lodged in the Director of Central Intelligence by virtue of the provisions of Title 50, United States Code, Sections 403d and 403g, and the implementing Regulations

promulgated thereunder, I have determined that it would be contrary to the national interest and would further compromise the proper protection of intelligence sources and methods to disclose further information in regard to those material matters which the plaintiff has sought to have revealed through his pleadings. I am herewith directing Juri Raus to make no further disclosures concerning his employment by the Agency or relating to this matter without specific authorization by proper officials of the Central Intelligence Agency."

Counsel for plaintiff still objected that the affidavit was not sufficiently specific and two clarifying affidavits by Helms were thereafter filed. The second such affidavit stated:

"1. In Paragraph 2 of my Affidavit dated April 22, 1966, which I executed as Deputy Director of Central Intelligence, I stated in part: 'The defendant was instructed to warn members of Estonian emigre groups that Eerik Heine was a dispatched Soviet intelligence operative, a KGB agent.'

"2. The context of that statement means, I intended by that statement to convey, and I now so state: The defendant, Juri Raus, was instructed by the Central Intelligence Agency to warn members of Estonian emigre groups that Eerik Heine was a dispatched Soviet intelligence operative, a KGB agent."

At a hearing on April 14, the Court had suggested that plaintiff might take the deposition of defendant or someone from the CIA or both, at a hearing with the Judge present, so that the Government's privilege might be claimed on a question by question basis, and immediate rulings obtained.

Such a hearing was held on April 28. At the beginning of that hearing a formal claim of privilege on behalf of the United States, made by Admiral W. F. Raborn, Director of Central Intelligence, was presented to the Court by Lawrence R. Houston, General Counsel of the CIA, and by Thomas J. Kenney, United States Attorney. The deposition of defendant was taken before the Court;



many of the objections asserted by counsel for the Government or by counsel for defendant on instructions from the General Counsel of the CIA were sustained by the Court in view of the rules stated in United States v. Reynolds, 345 U.S. 1 (1953), but defendant's multiple employment by the Government was clarified.

Argument on defendant's motion for summary judgment was heard on May 13, and again on September 28, after the record had been supplemented by several letters and documents and final briefs had been filed by both sides.

## II.

Defendant relies upon the defense of absolute privilege -- that he had been instructed by the CIA to warn members of Estonian emigre groups that Eerik Heine was a dispatched Soviet intelligence operative, a KGB agent, and that when he made the statements alleged to be defamatory he was acting within the scope of his employment by an agency of the United States. Such an absolute privilege was recognized and sustained by the Supreme Court in Barr v. Matteo, 360 U.S. 564 (1959), and in Howard v. Lyons, 360 U.S. 593 (1959), following Spalding v. Vilas, 161 U.S. 483 (1896), and Yaselli v. Goff, 2 Cir., 12 F.2d 396 (1926), aff'd per curiam 275 U.S. 503 (1927).<sup>3</sup> It was recognized in Garrison v. Louisiana, 379 U.S. 64, 74 (1964), in a dictum by a justice who had dissented in Barr v. Matteo and Howard v. Lyons. The privilege has been

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3/ The validity of the "claim of absolute privilege is governed by federal standards, to be formulated by the Courts in the absence of legislative action by Congress." Howard v. Lyons, 360 U.S. 593, 597 (1959).

repeatedly and recently recognized and sustained by the Courts of Appeals of many circuits. See e.g.: Preble v. Johnson, 10 Cir., 275 F.2d 275 (1960); Sauber v. Gliedman, 7 Cir., 283 F.2d 941 (1960), cert. den. 366 U.S. 906 (1961); Ove Gustavsson Contracting Co. v. Floete, 2 Cir., 299 F.2d 655 (1962), cert. den. 374 U.S. 827 (1963); Poss v. Lieberman, 2 Cir., 299 F.2d 358, cert. den. 370 U.S. 944 (1962); Brownfield v. Landon, 113 U.S. App. D.C. 248, 307 F.2d 389, cert. den. 371 U.S. 924 (1962); Wozencraft v. Captiva, 5 Cir., 314 F.2d 288 (1963); Denman v. White, 1 Cir., 316 F.2d 524 (1963); Waymire v. Deneve, 5 Cir., 333 F.2d 149 (1964); Chafin v. Pratt, 5 Cir., 358 F.2d 349 (1966). See also DeLevey v. Richmond County School Board, 4 Cir., 284 F.2d 340 (1960); Holmes v. Eddy, 4 Cir., 341 F.2d 477 (1965).

The reasons for the privilege were stated by Mr. Justice Harlan in Barr v. Matteo, 360 U.S. at 571, 572, as follows:

" \* \* \* It has been thought important that officials of government should be free to exercise their duties unembarrassed by the fear of damage suits in respect of acts done in the course of those duties -- suits which would consume time and energies which would otherwise be devoted to governmental service and the threat of which might appreciably inhibit the fearless, vigorous, and effective administration of policies of government. The matter has been admirably expressed by Judge Learned Hand:

"It does indeed go without saying that an official, who is in fact guilty of using his powers to vent his spleen upon others, or for any other personal motive not connected with the public good, should not escape liability for the injuries he may so cause; and, if it were possible in practice to confine such complaints to the guilty, it would be monstrous to deny recovery. The justification for doing so is that it is impossible to know whether the claim is well founded until the case has been tried, and that to submit all officials, the innocent

as well as the guilty, to the burden of a trial and to the inevitable danger of its outcome, would dampen the ardor of all but the most resolute, or the most irresponsible, in the unflinching discharge of their duties. Again and again the public interest calls for action which may turn out to be founded on a mistake, in the face of which an official may later find himself hard put to it to satisfy a jury of his good faith. There must indeed be means of punishing public officers who have been truant to their duties; but that is quite another matter from exposing such as have been honestly mistaken to suit by anyone who has suffered from their errors. As is so often the case, the answer must be found in a balance between the evils inevitable in either alternative. In this instance it has been thought in the end better to leave unredressed the wrongs done by dishonest officers than to subject those who try to do their duty to the constant dread of retaliation. . . .

"The decisions have, indeed, always imposed as a limitation upon the immunity that the official's act must have been within the scope of his powers; and it can be argued that official powers, since they exist only for the public good, never cover occasions where the public good is not their aim, and hence that to exercise a power dishonestly is necessarily to overstep its bounds. A moment's reflection shows, however, that that cannot be the meaning of the limitation without defeating the whole doctrine. What is meant by saying that the officer must be acting within his power cannot be more than that the occasion must be such as would have justified the act, if he had been using his power for any of the purposes on whose account it was vested in him. . . . ' Gregoire v. Biddle, 177 F. 2d 579, 581."

While recognizing the rule, as stated and applied in Barr v. Matteo, supra, counsel for plaintiff contend that defendant cannot assert the privilege for a number of reasons.

First, plaintiff contends the privilege does not apply to employees who exercise no discretion, as distinguished from officers or officials of the Government. This argument is not supported by reason or authority. In Waymire v. Deneve, 5 Cir.,

333 F. 2d 149 (1964), the privilege was accorded to an agent of the Customs Bureau of the United States Treasury Department, and Wigmore on Evidence (McNaughton Revision 1961), Vol. 8, §2368, states: "A subordinate or ministerial official -- i. e., one who acts under the orders of a superior official -- is absolutely exempt from liability if the harm done by him is done solely in implicit obedience to an order lawful upon its face.

In Barr v. Matteo the question was whether the privilege should be accorded to an official who exercised some discretion, but was below cabinet rank. Mr. Justice Harlan said:

"We do not think that the principle announced in Vilas (161 U. S. 483) can properly be restricted to executive officers of cabinet rank, and in fact it never has been so restricted by the lower federal courts. The privilege is not a badge or emolument of exalted office, but an expression of a policy designed to aid in the effective functioning of government. The complexities and magnitude of governmental activity have become so great that there must of necessity be a delegation and redelegation of authority as to many functions, and we cannot say that these functions become less important simply because they are exercised by officers of lower rank in the executive hierarchy." 360 U. S. 572, 573.

Later he said:

"\* \* \* That petitioner was not required by law or by direction of his superiors to speak out cannot be controlling in the case of an official of policy-making rank, for the same considerations which underlie the recognition of the privilege as to acts done in connection with a mandatory duty apply with equal force to discretionary acts at those levels of government where the concept of duty encompasses the sound exercise of discretionary authority." 360 U. S. 575.

These principles apply with even greater force to an employee who is acting under orders and has a duty to carry them out.

The test for determining the scope of the privilege, as stated in Barr v. Matteo, 360 U. S. at 575, is whether the

action taken was within the outer perimeter of the defendant's line of duty.

Plaintiff contends that the test is not met in this case; that the statements made by defendant "were actions beyond the statutory power of the CIA", because 50 U. S. C. A. 403(d) (3) provides "that the Agency shall have no \* \* \* internal security functions". He argues that departments and agencies other than the CIA, such as the Subversive Activities Control Board and the Federal Bureau of Investigation, must deal with security matters arising within the borders of the United States. It is clear, however, that one of the functions entrusted to the Central Intelligence Agency and its Director is "protecting intelligence sources and methods from unauthorized disclosure". 50 U. S. C. A. 403(d) (3). In his affidavit of April 1, 1966, quoted at length above, Helms stated that Raus was furnished information concerning the plaintiff by the CIA "and was instructed to disseminate such information to members of the Legion so as to protect the integrity of the Agency's foreign intelligence sources". In his final affidavit, also quoted above, Helms stated that defendant "was instructed by the Central Intelligence Agency to warn members of Estonian emigre groups that Eerik Heine was a dispatched Soviet intelligence operative, a KGB agent".

It is reasonable that emigre groups from nations behind the Iron Curtain would be a valuable source of intelligence information as to what goes on in their old homeland. The fact that the immediate intelligence source is located in the United States does not make it an "internal security function", over which the CIA has no authority. The Court concludes that activities

by the CIA to protect its foreign intelligence sources located in the United States are within the power granted by Congress to the CIA.<sup>4</sup>

### III.

Plaintiff next argues that the motion for summary judgment should be denied on the ground that there is a genuine issue as to a material fact, namely, whether defendant was employed by the CIA and, if so, whether the statements which he made were in accordance with his instructions or went beyond his instructions. Since the amendment to Rule 56(e), F. R. Civ. P., effective July 1, 1963, it is now beyond dispute that "When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him." That was always the rule in the Fourth Circuit. Bond

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<sup>4/</sup> At the hearing on May 13 the Court requested the General Counsel of the CIA to submit a statement as to the legal authority of the CIA to engage in activities within the United States with respect to foreign intelligence sources. In response to that request, the General Counsel prepared an affidavit which incorporates by reference particular paragraphs of a document which is classified "secret" and which cannot be declassified for the purposes of this case. For that reason, the General Counsel requested the Department of Justice to submit to the Court under seal, for in camera inspection, the identification of the document and the two pertinent paragraphs, properly certified. The Agency stated that it did not object to the Court making the classified excerpts available to the attorneys for plaintiff and defendant respectively for inspection but not for copying, and stated that any of the attorneys would be granted access, upon request, to the two pertinent excerpts at the office of the General Counsel, with the understanding that the attorneys would not disclose the excerpts thus

Distributing Co. v. Carling Brewing Company, D. Md., 32 F. R. D.

409, aff'd 4 Cir., 325 F.2d 158 (1963). Upon examination, the claimed conflicts in the affidavits and depositions do not materially affect the facts upon which the defense of absolute privilege is based. The most important conflict claimed by plaintiff is whether defendant was employed by the Bureau of Public Roads or by the CIA. However, it appears quite plainly from paragraphs 4, 6, 7 and 8 of the second affidavit of Helms, quoted above, and from the deposition of defendant, that he was employed both by the Bureau of Public Roads and by the CIA, for different purposes, and that he was acting in the course of his employment by the CIA when he made the statements in question. Plaintiff does not dispute that defendant was employed by the United States.<sup>5</sup>

There is more force in plaintiff's argument that he has been prevented from discovering possibly conflicting evidence by the Government's assertion of its privilege not to disclose

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4/ (continued)

made available to them. The attorneys for plaintiff refused to examine the excerpts under those conditions, stating that they would not look at anything they could not communicate to their client. The Court has examined the papers in camera; they are not inconsistent with the affidavits of Helms, but the Court has not considered the classified excerpts in reaching its decision herein.

5/ Plaintiff contends that some of the statements in Helms' affidavits are conclusions rather than facts. No doubt some of the statements are conclusions, but the facts contained in the affidavits support the conclusions, which are further supported by the deposition of the defendant taken in open court and the exhibits which have been filed. The conclusions are not contradicted by any evidence or other material before the Court except the bare allegations of plaintiff's complaint, which are not sufficient to overcome the facts contained in the affidavits and other evidence. Rule 56(e).

the operations of the CIA. The Court has been anxious that plaintiff should have the opportunity to discover whatever facts he is legally entitled to discover under the rules stated in United States v. Reynolds, 345 U. S. 1 (1953), and has accorded plaintiff that opportunity, through the deposition of defendant taken in open court, and by requiring such clarification and amplification of the original affidavits made by Helms as the Agency determined were consistent with the security interests committed to its care.

Deputy Director Helms, in his affidavit of April 1, 1966, stated "that it would be contrary to the security interests of the United States for any further information pertaining to the use and employment of Juri Raus by the Agency in connection with Erik Heine to be disclosed, other than the disclosures already made in the defendant's answer, in my own affidavits, and the defendant's affidavits \* \* \*."

It is clear, therefore, that if Raus makes further disclosures without the approval of the Agency, he would not only violate the secrecy agreement, see note 1, above, but might also violate the statute prohibiting unlawful disclosure of confidential information respecting the national defense. See 18 U. S. C. A. 793, 794, 798 and 1905.

The privilege of the Government which was recognized and sustained in Reynolds is reenforced in this case by the provisions of the applicable statutes. 50 U. S. C. A. 403(d) (3) provides, in pertinent part:

"The Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure."



In conjunction with this provision, 50 U.S.C.A. 403g provides:

"In the interests of the security of the foreign intelligence activities of the United States and in order further to implement the proviso of section 403(d) (3) of this title that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, the Agency shall be exempted from the provisions of section 654 of Title 5, and the provisions of any other law which require the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency \* \* \*"

See also Executive Order No. 10501, 18 F.R. 7049 (1953), as amended by Executive Order No. 10816, 24 F.R. 3777 (1959), set out after 50 U.S.C. 401 (Cum. Supp. 1965).

Plaintiff argues that the affidavits and testimony in support of the motion for summary judgment do not present admissible evidence because they were not subject to cross-examination and were not based on personal knowledge. The deposition of defendant, taken by counsel for plaintiff in open court, was itself cross-examination, and was permitted to the full extent authorized by United States v. Reynolds. Such testimony as he was allowed to give was based on his personal knowledge.

The affidavits with respect to the instructions given defendant were made by Helms, then Deputy Director of Central Intelligence, rather than by the person who gave defendant the instructions. The decision not to disclose the name of that person was made by the appropriate official of the CIA, in the exercise of the authority granted him by the applicable statutes and executive orders. That such disclosure might be damaging to the intelligence sources and methods of the Agency was asserted by Helms in paragraphs 10 and 11 of his affidavit, and by Admiral

Raborn, then Director of Central Intelligence, in the Claim of Privilege which he filed on behalf of the United States.

It cannot be denied that the combination of (1) the privilege against liability for defamation asserted by defendant and (2) the privilege against discovery of the secrets of the CIA asserted by the Government, places plaintiff in a very difficult position. But the fact that the two privileges operate in concert in the instant case does not affect their validity.

The provisions of Rule 56(e), F. R. Civ. P., requiring affidavits to be made on personal knowledge and to set forth facts which would be admissible in evidence, must be read in connection with the applicable statutes and executive order, particularly 50 U.S.C.A. 403(d) (3) and 403g quoted and discussed above in this section of the opinion. To require that the affidavit be signed by the person who personally instructed Raus would force the CIA to reveal the names of one or more of its personnel in contravention of section 403g, quoted above.

A trial would not resolve the question of the truth or falsity of the charges, because the Court would still be required to recognize the privilege asserted by the United States. There is no reason to believe that the Agency's position will be altered by any further attempts at discovery by plaintiff. The dilemma which would be presented at the trial would be the same dilemma which is presented now -- whether the fact that defendant is precluded from testifying to facts and from calling witnesses who might establish the truth of the alleged defamatory remarks (a)

should require defendant to stand weaponless before his adversary, or (b) should deny plaintiff the opportunity to attempt to vindicate himself in court.<sup>6</sup> No way to avoid choosing between two evils has been suggested or discovered. The choice is dictated by the passage from Judge Learned Hand's opinion in Gregoire v. Biddle, 177 F.2d 579, 581, which is set out in full in section II of this opinion. The principles so clearly stated by Judge Hand and applied by the Supreme Court in Barr v. Matteo and Howard v. Lyons require that summary judgment be entered for defendant herein.

(Signed) Roszel C. Thomsen  
Chief Judge, U.S. District Court

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<sup>6/</sup> Plaintiff has embraced the opportunity to bring his case to the attention of the public by elaborate statements to the press in this country and in Canada. The propriety of the way the CIA operates has been canvassed in a series of articles in the New York Times and other leading newspapers, and has been investigated by the Congress during the past months.



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24 OCT 1966

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

# 29

EERIK HEINE

vs.

Civil No. 15952

JURI RAUS

September 28, 1966

**TRANSCRIPT OF PROCEEDINGS**

FRANCIS T. OWENS  
Official Reporter  
514 Post Office Building  
BALTIMORE 2, MARYLAND  
SAratoga 7-7126

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

EERIK HEINE

vs.

Civil No. 15952

JURI RAUS

Baltimore, Maryland  
Wednesday, September 28, 1966

The above-entitled matter came on for hearing  
before His Honor, Roszel C. Thomsen, Chief Judge, at ten  
o'clock a.m.

APPEARANCES

For the Plaintiff:

MR. ERNEST C. RASKAUSKAS  
MR. ROBERT J. STANFORD

For the Defendant:

MR. PAUL R. CONNOLLY

Also present representing the Central  
Intelligence Agency, Mr. Lawrence R. Houston, General  
Counsel.

PROCEEDINGS  
- - -

1  
2 THE COURT: Now, we have a criminal case  
3 that is going to follow these motions today, and the  
4 lawyers in that case have been inquiring when they are  
5 likely to be reached. Do you have any estimate as to how  
6 long you feel the present argument will take? A couple of  
7 hours or more or less?

8 MR. CONNOLLY: I could not see how it could  
9 possibly take more than an hour, Your Honor.

10 THE COURT: You are an optimist.

11 MR. STANFORD: I think it will be a little  
12 more than that, Your Honor; maybe an hour and a-half.

13 THE COURT: The attorneys in the criminal  
14 case are excused until twelve o'clock.

15 Now, gentlemen, I have read the two most recent  
16 briefs. I understand there is a new affidavit been filed  
17 today. Is that by the plaintiff?

18 MR. RASKAUSKAS: Yes, Your Honor. We filed  
19 one letter from Mr. Heine's Canadian counsel to the FBI at  
20 the request of Mr. Connolly in accordance with the--

21 THE COURT: That was mentioned in his--

22 MR. RASKAUSKAS: Yes, sir.

23 THE COURT: In his brief.

24 MR. RASKAUSKAS: Yes, and that is the letter;  
25



1 and then the other was at the suggestion of the Court. We  
2 had a letter from a Mr. Tammack in the file, and we have  
3 supplanted that by an affidavit from him which epitomizes  
4 the main points of his letter.

5 THE COURT: You have received these then, Mr.  
6 Connolly?

7 MR. CONNOLLY: I received both this morning,  
8 Your Honor, just no sooner than had you, and I think this  
9 Tammack affidavit is meaningless and immaterial and I ask  
10 that it be stricken. It does not mean anything in this  
11 case.

12 THE COURT: Well, all right, if it is  
13 immaterial, if I find it immaterial it is not going to hurt  
14 you. If it is not immaterial it is no surprise to you.  
15 Is that right? Because it says no more than--

16 MR. CONNOLLY: I do not understand the  
17 question.

18 THE COURT: I mean it says no more than the  
19 letter. I mean does it introduce a new element in the  
20 case that you would have to or you would want to answer?

21 MR. CONNOLLY: No.

22 THE COURT: If you are arguing a motion for  
23 summary judgment the record has to be closed sometime on  
24 what is to be considered by the Court.

25 MR. CONNOLLY: I do not think it is

1 appropriate for me to chase down every alleyway of human  
2 imagination. This affidavit here I suggest to Your Honor  
3 is completely meaningless so far as it applies to this  
4 motion.

5 So I chose not to take any position with  
6 respect to it.

7 THE COURT: Well, it has been filed before  
8 the motion is argued, for what that is worth, and you contend  
9 it is immaterial.

10 Well, the letter from Landra is in. That is  
11 part of the record as I take it.

12 MR. CONNOLLY: Mr. Raskauskas at the last  
13 hearing wanted to introduce a response from Mr. Hoover,  
14 Director of the Federal Bureau of Investigation.

15 THE COURT: Yes.

16 MR. CONNOLLY: And you asked me whether I  
17 challenged the authenticity of that document.

18 THE COURT: Yes.

19 MR. CONNOLLY: And I said no I did not  
20 challenge the authenticity, but I thought in order to  
21 understand it you would have to have the letter that  
22 prompted that reply.

23 I take it that the letter that Mr. Raskauskas  
24 has just furnished is the letter which prompted that reply,  
25 and I have no way whatsoever of knowing whether that is

1 authentic or not since I am not privy to any conferences  
2 with Mr. Landra.

3 THE COURT: Well, it is addressed to the  
4 headquarters of the Federal Bureau of Investigation. You  
5 have not checked with them? You want the Court to check  
6 and ask if it is authentic?

7 MR. CONNOLLY: I just have not any way of  
8 knowing whatsoever, Your Honor.

9 THE COURT: All right.

10 MR. CONNOLLY: And again I do not think this  
11 is material.

12 THE COURT: Well, let me get clear about the  
13 Hoover affidavit.

14 MR. CONNOLLY: There is no affidavit from  
15 him.

16 THE COURT: I mean the Hoover letter. I am  
17 not saying it is material or that it is not material or  
18 what it proves at this time. That is a part of argument.

19 But you do not contest the fact that Mr.  
20 Hoover wrote the letter, and the only purpose of the letter  
21 from Landra to the FBI is in order to make clear what Mr.  
22 Hoover said?

23 The letter from Landra to the FBI is not  
24 evidence to prove the facts stated in Landra's letter, but  
25 it is evidence to show what Mr. Hoover's letter was all

1 about? You did not ask to produce Mr. Hoover. Do you want  
2 Mr. Hoover? You do not need an affidavit to say that Mr.  
3 Hoover wrote the letter.

4 MR. CONNOLLY: I have already agreed to that,  
5 Your Honor.

6 THE COURT: So that it is simply here, and  
7 both parties agree that the Landra letter is here just to  
8 show what questions Mr. Hoover was answering or what sort of  
9 a letter he was answering and not to prove the facts  
10 contained in the Landra letter?

11 MR. CONNOLLY: Your Honor asked me whether I  
12 would agree to the authenticity of the Landra letter. I  
13 said I have no way of knowing whether it is authentic or  
14 not. I will I think satisfy Your Honor by agreeing that if  
15 Mr. Landra were called as a witness he would testify that he  
16 wrote that letter.

17 THE COURT: But do you know? Maybe they can  
18 tell me. Where did you get this? From Mr. Landra or from  
19 the FBI or somebody else?

20 MR. RASKAUSKAS: I got that from the  
21 plaintiff at the time the other letters were furnished to  
22 me, and this letter is being filed with the Court at the  
23 request of Mr. Connolly. I have a letter on that.

24 THE COURT: This is a copy?

25 MR. RASKAUSKAS: A copy.

1 THE COURT: That Landra sent to Heine of his  
2 letter to the FBI because it purports to be signed by Landra.

3 MR. RASKAUSKAS: Yes, sir, Your Honor.

4 THE COURT: And it was either therefore an  
5 original or purports to be.

6 MR. RASKAUSKAS: A copy.

7 THE COURT: A copy you have given me. It  
8 purports to be a copy of the original or a copy of a  
9 duplicate original which was sent to somebody, and you say  
10 this copy here--I use the words "purports to be" only in  
11 deference to Mr. Connolly's unwillingness to admit.

12 This purports to be a copy, a photostatic  
13 copy of a duplicate original of the letter to the FBI which  
14 Landra sent to Heine?

15 MR. RASKAUSKAS: Yes, Your Honor.

16 THE COURT: All right, and Mr. Connolly  
17 agrees that if he were here he would say he sent this, so I  
18 think we can assume this is the letter to which Mr. Hoover  
19 replied. O.K.

20 Now, what else has to be cleaned up before we  
21 hear the motion for summary judgment? I take it that all  
22 preliminary matters ought to be cleaned up first because if  
23 it should be granted it would end the case.

24 MR. CONNOLLY: I am reluctant to get into  
25 this because--

1 THE COURT: And if it is not, of course,  
2 things will be opened up again.

3 MR. CONNOLLY: --because I think it is  
4 immaterial, but Mr. Raskauskas has a letter in the file from  
5 John Edgar Hoover to Mr. Raus, and he at the last hearing  
6 wanted a stipulation as to the authenticity of that letter.

7 I said that I would do that but I thought that  
8 Mr. Raus' letter that prompted that response ought to get  
9 into the record. And I have it here. I do not have  
10 enough copies but I thought that--

11 THE COURT: They can be obtained in two  
12 minutes by the marvelous devices that we have in our court.

13 MR. CONNOLLY: I thought that Mr. Raskauskas  
14 had abandoned this matter because I had not seen any of this  
15 matter which he promised to get at the last hearing until  
16 this morning.

17 Would one of you gentlemen mind running off  
18 three copies of that?

19 THE COURT: All right.

20 MR. CONNOLLY: Now, I wish Mr. Raskauskas  
21 would agree that Mr. Raus authored this letter. If he does  
22 not I will be happy to put Mr. Raus on the stand and prove  
23 it.

24 THE COURT: Well, it's in the same situation  
25 with the Landra letter, not to prove the facts contained in

1 it but to show--

2 MR. CONNOLLY: Authenticity.

3 THE COURT: To show the nature of the request  
4 to which Mr. Hoover was replying; is that it?

5 MR. CONNOLLY: Yes, sir.

6 THE COURT: It would seem to fall in the same  
7 class as the Landra letter.

8 Well, maybe we better take these things one at  
9 a time and clean them up.

10 MR. RASKAUSKAS: That is already in the file.  
11 We have no objection to that coming in. It is already in  
12 the file.

13 THE COURT: The Raus letter to Hoover is in  
14 for the same purpose as the Landra letter. All right.

15 Now, I have a letter from Mr. Raskauskas dated  
16 August 30th in which he asked that the matter be set today  
17 for hearing on the four following matters:

18 "Hearing on a motion to strike the order  
19 allowing amendment of the answer; second, hearing on  
20 objections to interrogatories; third, hearing on  
21 motion for summary judgment; fourth, hearing on in  
22 camera filings of .. May 31, 1966."

23 Now, first is the hearing on the motion to  
24 strike an order allowing amendment of answer. Do you want  
25 to argue that? Is anything new brought up that was not

1 brought up before with respect to which leave was granted?

2 MR. RASKAUSKAS: No, there is nothing new  
3 brought up. Everything we have to offer other than  
4 commenting on our briefs is already in the files.

5 I thought that perhaps the most expeditious  
6 way to handle the matter this morning would be to have  
7 argument first on the objections to the interrogatories and  
8 a ruling on that and then the argument and the ruling on  
9 the in camera filing; and then the third matter to argue the  
10 motion to strike the amendment of answer, and the final  
11 matter the summary judgment motion.

12 But I think that the interrogatories and the  
13 in camera filing are more of a preliminary nature than the  
14 other motion and the summary judgment motion.

15 THE COURT: Well, all right. I do not care  
16 which order is done. Is the suggested order satisfactory  
17 to you, Mr. Connolly?

18 MR. CONNOLLY: I thought that we had disposed  
19 of the objections to interrogatories on the question of the  
20 claim of executive privilege. We called Mr. Raus here and  
21 we took his deposition.

22 THE COURT: Well, I would like to know what  
23 is open. Certainly there is no use in my going ahead and  
24 deciding a motion for summary judgment one way or the other  
25 and then finding that there were open points which made it



1       nugatory.   What I am anxious to do is to proceed in an  
2       orderly fashion and see that each decision stands once it is  
3       made.

4               MR. CONNOLLY:   Your Honor will recall that  
5       these four hundred and some odd interrogatories you said you  
6       would agree were unduly burdensome and went into areas that  
7       you certainly would not permit the examination upon, and you  
8       suggested that Mr. Raskauskas either take Mr. Raus' deposition  
9       or submit another set of interrogatories.

10              He has not chosen to do the latter, and we have  
11       taken Mr. Raus' deposition; so I think that the record is  
12       clear as to your disposition of the outstanding interrogatories  
13       of the plaintiff.

14              THE COURT:   Well, I think I said at one time  
15       that I thought that the four hundred interrogatories filed  
16       were unreasonably detailed.   What do you want?   We cannot  
17       go over all four hundred interrogatories.   You must have  
18       something narrower in mind than that.

19              MR. RASKAUSKAS:   Yes, Your Honor, but I think  
20       it is incumbent according to the Federal Rules of Civil  
21       Procedure for the defendant in this case to make his  
22       objections with specificity.

23              Now, in the ordinary case, a personal  
24       injury action, I would say without looking at the file that  
25       four hundred and some interrogatories are burdensome; but we

1 must look at each discovery device in the light of the  
2 surrounding circumstances, and these interrogatories were  
3 propounded only after the most lengthy deposition that I have  
4 ever been involved in, one involving nine hundred and some  
5 pages by the defendant.

6 Now, the defendant felt that they had to  
7 interrogate my client for more than three days to have their  
8 discovery. My client does not have the resources to take a  
9 three day deposition of the defendant. We do not have the  
10 money of the CIA behind us. All we have is a just cause.  
11 We have four hundred and some questions here. ✓

12 THE COURT: Just, please, argue the point  
13 without making speeches to the newspapers.

14 MR. RASKAUSKAS: Well, I am not making  
15 speeches to the newspapers, Your Honor, but I am saying this,  
16 that every type of bad faith was used with respect to this  
17 discovery.

18 I was called on the telephone by Mr. Prettyman  
19 and asked because of the number of the interrogatories to  
20 give him more time. There is a letter to the Court from  
21 Jerry Collins, another counsel from Hogan-& Hartson that said  
22 that because of the number of interrogatories the calendar  
23 call in this case should be delayed, that they had to  
24 prepare them.

25 Then they respond to all our work in getting

1 these interrogatories together, which is certainly not a  
2 light matter, with a one pager saying that three hundred  
3 and thirty-five of these interrogatories are patently  
4 privileged on their face.

5 Now, I am entitled to know which three  
6 hundred and thirty-five they are and have them specify the  
7 number.

8 THE COURT: All right. Let's get to this.  
9 The point is this: If the case is going to trial and the  
10 motion for summary judgment is not granted, obviously there  
11 has got to be considerably more discovery by your people.  
12 How much of this discovery is necessary on the points  
13 raised by the motion for summary judgment? If you have  
14 not had all the discovery you are entitled to on that point  
15 obviously we are not ready to hear the motion for summary  
16 judgment.

17 MR. RASKAUSKAS: Well, I would say, Your  
18 Honor--

19 THE COURT: And it was my understanding  
20 generally, as Mr. Connolly has spoken, that the Court had  
21 said that the question of privilege was so difficult that  
22 the simplest way was to take the deposition of the  
23 defendant, and I thought that was agreeable to you that we  
24 proceed in that way.

25 I made certain rulings on privilege during

1 the taking of the deposition of Mr. Raus, and of course all  
2 of those rulings are appealable in so far as they are  
3 against either side. As a practical matter they are  
4 appealable by you in case I should grant the motion for  
5 summary judgment. If I deny the motion for summary  
6 judgment, why, everything is going to open up again at the  
7 trial.

8 Now, what matters do you want covered by  
9 interrogatories before we argue the motion for summary  
10 judgment that have not in effect been ruled upon by the  
11 rulings that the Court has made at the deposition of Raus?  
12 If you are entitled to more I want to give it to you and  
13 postpone this hearing on the motion for summary judgment.

14 MR. RASKAUSKAS: Well, the line of questions  
15 we propounded in these interrogatories was foreclosed on  
16 deposition. That is to find out where Raus was working,  
17 how much he was paid, all the relevant matters so that the  
18 Court could make a determination of what his status was,  
19 which I believe none of us know at the present time, and we  
20 are just trying to get at the truth of the matter of what  
21 this man's capacity was. We still do not know that.

22 THE COURT: Well, you know what the Court  
23 felt the Court could allow you to ask under applicable rules  
24 of privilege. Now, if I am wrong in my understanding of  
25 the rules of privilege and if I grant a summary judgment

1 based upon such error you will certainly get it reversed  
2 and sent back with clearer instructions of what you are  
3 entitled to know.

4 If I deny the motion for summary judgment, why  
5 then we go ahead on discovery on the merits.

6 Now, the motion for summary judgment is based  
7 essentially on privilege. If there is any further  
8 information that you think you might obtain consistent with  
9 the Court's view on privilege as heretofore expressed I want  
10 you to have it. I want you to have it before I hear the  
11 motion for summary judgment.

12 MR. RASKAUSKAS: Would Your Honor indulge us?

13 THE COURT: Yes.

14 MR. RASKAUSKAS: Your Honor, if we can enter  
15 into a stipulation that all the questions that we would ask  
16 that we have propounded in these interrogatories pertaining  
17 to Raus' employment, capacity, scope of authority, payment,  
18 and so forth, if we can stipulate that these questions would  
19 all be objected to on the grounds of privilege and that the  
20 Court would grant that objection we are ready to go forward.

21 THE COURT: I am not going to rule blindfolded.  
22 If you want me to rule on the four hundred questions I will  
23 postpone this case until such time as the Court can consistent  
24 with its other obligations, other litigants of this court,  
25 consider four hundred separate questions of privilege, and

1 if you want me to do that I will postpone this case and do  
2 it, or if you want to put both sides to arguing each one of  
3 these separate four hundred points you can do it in writing,  
4 and I will undertake to pass on them at such time as I can  
5 reach them.

6 MR. CONNOLLY: Your Honor, may I assist the  
7 Court at this point? At the hearing on May 13, 1966, that  
8 was following the deposition of Mr. Raus.

9 MR. STANFORD: Page?

10 MR. CONNOLLY: Page 7.

11 I will be happy to let you see it to read it,  
12 Your Honor, if you want to look at my copy.

13 THE COURT: I do not seem to have it.

14 MR. CONNOLLY: May I suggest Your Honor read  
15 the portions that I have marked on page 7 and 8.

16 THE COURT: Well, it says, and this is the  
17 Court:

18 "There are interrogatories which have never  
19 been answered. The interrogatories have not been  
20 answered.

21 "Mr. Stanford: No, we received no answers,  
22 Your Honor.

23 "The Court: I gather that for the purpose  
24 of this motion for summary judgment they are based  
25 entirely on the point of privilege. You have gone

1 as far as you can practically go under the Court's  
2 ruling in the deposition of Raus; is that right?

3 "Mr. Stanford: Your Honor, we do not hold  
4 that the sole consideration here is the Barr vs.  
5 Matteo doctrine. We say that there are genuine  
6 issues of fact which would be outside the purview  
7 of that governmental immunity doctrine.

8 "The Court: I understand that, but I mean,  
9 you are satisfied to go ahead with the motion for  
10 summary judgment today without pressing further for  
11 answers to interrogatories?

12 "Mr. Stanford: Yes, Your Honor, we are.

13 "The Court: All right.

14 "Mr. Stanford: This does not mean that we  
15 are waiving the answers to those interrogatories.  
16 We think it is improper but we think that the  
17 government has taken a stand whereby they will  
18 respond to the interrogatories. So that they have  
19 in effect--

20 "The Court: So that in effect it is the same  
21 point that stops the--

22 "Mr. Stanford: That stopped the deposition  
23 of Mr. Raus.

24 "The Court: That stopped the deposition of  
25 Raus, that would stop any interrogatories that would

1 help you?

2 "Mr. Stanford: Yes, sir."

3 Well, doesn't that cover it?

4 MR. RASKAUSKAS: Well, that is almost the  
5 same as the stipulation; but the matter is this, Your Honor:  
6 The only way I see of getting out of this situation is that  
7 if the Court would continue its rulings on those objections  
8 subject to the outcome of the summary judgment motion.

9 In other words, there are pending objections  
10 to interrogatories. They have to be ruled on at some point  
11 in this litigation.

12 THE COURT: Oh, certainly.

13 MR. RASKAUSKAS: And I thought Your Honor  
14 wanted to clear those matters up before it ruled on the  
15 summary judgment motion. We have no objection to continuing  
16 that ruling pending the disposition of the summary judgment  
17 motion; but we are, as Mr. Stanford said, and as I  
18 reiterate, that we still lodge our same position with  
19 respect to these interrogatories.

20 THE COURT: Well, I do not believe I ever  
21 read all four hundred of them. I certainly read some of  
22 them, and I am not prepared to say at this point what my  
23 ruling on each one of those separate ones would be except  
24 as has been indicated by my rulings on the deposition of  
25 Raus, and I gather that Mr. Stanford and you both, Mr.



1 Stanford agreed in May and Mr. Raskauskas agrees now that in  
2 view of the rulings which the Court has heretofore made if  
3 those rulings are applied to the interrogatories that you  
4 would not get any more information than you have now whether  
5 rightly or wrongly.

6 MR. STANFORD: May I have the Court's  
7 indulgence for a moment, Your Honor?

8 THE COURT: Yes.

9 MR. STANFORD: Your Honor, I think we can  
10 proceed on this matter as it stands. However, I think that  
11 we would like to reserve our objections to the interrogatories,  
12 and I think if there was any one or two which we would again  
13 want to assert as affecting the motion, even after it had  
14 been decided, then I think that it would be so minor, and I  
15 cannot conceive of it, but I think it would be such a minor  
16 element or such a small point that it could be readily  
17 decided by the Court even without a hearing, maybe on a one  
18 or two page statement by counsel, I would think that that  
19 would be the best procedural course for us to take.

20 THE COURT: Well, all right. If you have a  
21 couple like that that would help you if you think you might  
22 get this information I will be glad to rule on them on an  
23 exchange of memoranda before I decide on them.

24 MR. STANFORD: Well, Your Honor, I do not feel  
25 that that is necessary. I think that if the Court would

1 rule in either way and then we had one or two questions--

2 THE COURT: Yes.

3 MR. STANFORD: Which we think might affect or  
4 alter the ruling of the Court--

5 THE COURT: I see.

6 MR. STANFORD: I think the Court could readily  
7 dispose of them in that fashion.

8 THE COURT: Yes.

9 MR. STANFORD: Without requiring a rehearing  
10 of the whole thing.

11 THE COURT: Yes.

12 MR. STANFORD: I cannot conceive of that  
13 happening, but if it does I think it could be readily  
14 handled that way.

15 THE COURT: Well, I think you are probably  
16 right.

17 Well, then we need not go further with the  
18 interrogatories at the moment.

19 MR. CONNOLLY: If I may recapture my  
20 transcript, I may need it, Your Honor.

21 THE COURT: Yes.

22 MR. CONNOLLY: Thank you.

23 THE COURT: The second point would be the  
24 hearing on the in camera filing. You had better brush me  
25 up on that because I have not read them. I may have read

1       them when they were filed.    I read so much in this case.  
2       I certainly glanced at them and have sealed them, and they  
3       have been in my safe.

4               Now, I am not clear whether the parties agreed  
5       that I should read them in connection with the motion for  
6       summary judgment, whether if I am to read them--am I to  
7       consider them in ruling on the motion for summary judgment?  
8       And I do not see how I can consider them unless they are  
9       made available to counsel for both sides.

10              Now, counsel for the plaintiff is saying that  
11       they object to having something made available to them that  
12       they cannot discuss with their client.    I think that is  
13       generally true.    There may be exceptions to it if they are  
14       matters dealing purely with questions of law as to which the  
15       client could have no knowledge and do not involve any facts  
16       of which he could have knowledge or do not involve matters  
17       of which he could be of any help to his counsel, so that I  
18       think that the general rule has possible exceptions.

19              I have not the remotest idea this falls within  
20       such an exception or not; so perhaps the best thing to do is  
21       to have Mr. Connolly refresh my recollection on what this  
22       paper is that he has given me or why it was given me and  
23       what use, if any, he thinks I should make of it.

24              MR. CONNOLLY:    First of all, I did not give it  
25       to you, Your Honor.    The United States Attorney, I think,

1 gave it to you.

2 THE COURT: All right. Yes, it comes from  
3 the Department of Justice. You are perfectly right.

4 MR. CONNOLLY: Your Honor will recall that  
5 again at the May hearing you asked for a memorandum brief--

6 THE COURT: Yes.

7 MR. CONNOLLY: --on the authority of the  
8 CIA in this matter. Mr. Raskauskas keeps making the point  
9 here that the CIA has no function over internal security  
10 matters, that that field of activity is relegated by  
11 statute solely to the Federal Bureau of Investigation, and  
12 I do not dispute that with him but that this does not mean  
13 that the CIA has no legitimate activities to perform within  
14 the continental limits to the United States.

15 Collateral to their duties to protect foreign  
16 intelligence sources they may have to engage in activities  
17 within the continental limits of the United States.

18 Your Honor suggested a memorandum be filed  
19 and asked that Mr. Houston give you something.

20 Now, what you have is an affidavit of Mr.  
21 Houston, and that affidavit refers to a National Security  
22 Council directive to the CIA, which is a classified document;  
23 and that is why it was furnished to you in camera, with the  
24 invitation to Mr. Raskauskas and to Mr. Stanford to examine  
25 it.

I have done so. I know what it contains.

1 THE COURT: Well, it deals only with a  
2 narrow legal question.

3 MR. CONNOLLY: That is correct, whether or  
4 not--

5 THE COURT: Let me clear this up. It deals  
6 with a legal question raised by plaintiff as to whether the  
7 CIA's functions are so limited that they would not cover  
8 certain activities in the United States. I do not want  
9 to state it in a way that attempts to prejudge it because  
10 I have no opinion one way or the other.

11 MR. CONNOLLY: It is Mr. Houston's affidavit.  
12 Paragraph 2 of Mr. Houston's affidavit, and I can read this  
13 part.

14 THE COURT: Well, I take it that the  
15 plaintiff agrees that the Court must read the affidavit, the  
16 material supplied in order to make a ruling, in order to make  
17 an intelligent ruling on what should be done with it.

18 MR. HOUSTON: The second paragraph.

19 MR. RASKAUSKAS: Your Honor, I think we can  
20 dispose of this problem before we get to that consideration.  
21 Admiral Raborn filed a formal claim of privilege in this  
22 case. He could not have done it with any more dignity  
23 than it has been filed.

24 The Deputy Director, now the Director,  
25 Richard Helms, filed three affidavits. Now, Admiral Raborn

1       said, "No more information, privileged."

2               The Deputy Director, Richard Helms, said, "We  
3       are giving you everything we can, and this is it," in effect,  
4       in those three affidavits.

5               Now, we are in the anomalous position where  
6       we have the general counsel of the agency overruling the  
7       Director and the Deputy Director.

8               THE COURT:    Oh, I think that this is a new  
9       point which is raised.   They have made certain statements  
10      claiming privilege and have given affidavits claiming  
11      privilege.   You then--I do not remember the exact stage--  
12      raised some point, raised the points that the CIA had  
13      nothing to do with internal security, and that this was an  
14      internal security matter, and that therefore it was outside  
15      the scope of the CIA, and therefore outside the scope of  
16      any employee or agent of the CIA.

17              Now, that point has certainly come into the  
18      case at some stage other than the very first stage.   I do  
19      not pretend to remember at what stage that point was raised  
20      by the plaintiff.   It was certainly a point which plaintiff  
21      is entitled to raise, and once raised the defendant and the  
22      Government are entitled to meet it in some way, and the  
23      Court wants to be guided by it.

24              Now, we have certainly certain matters of  
25      which the Court takes judicial notice.   The Court takes

1 judicial notice of the statute. The Court takes judicial  
2 notice of certain other matters which are published in the  
3 Code of Federal Regulations and published in the Federal  
4 Register.

5 The Court cannot tell without guidance what  
6 is in such publications and expects counsel to keep the  
7 Court advised as to what it is, whether by a brief or some-  
8 times by affidavits<sup>or</sup>/otherwise.

9 Now, here we are talking about the function  
10 of the CIA, which is certainly an esoteric subject, and we  
11 have certain statutes, and there are probably certain  
12 reasons why certain regulations which with some other agency  
13 would be published in the Federal Register, probably should  
14 not be published in the Federal Register with respect to  
15 an intelligence agency.

16 Therefore, it is quite possible that there  
17 are matters which should be considered by the Court in  
18 deciding this matter which are not matters of public record.  
19 Therefore, the Court feels that the Government, which has  
20 asserted a privilege in this case, should be entitled to  
21 make clear its position.

22 Now, I think you may argue properly that the  
23 Court certainly is sympathetic with your argument that the  
24 Government has proceeded in the matter in an unusual  
25

1 fashion in going piecemeal or step by step, only stating  
2 what it believes was sufficient to meet what it felt was a  
3 point raised, and only going further when the Court said  
4 that the statements were not sufficiently clear.

5 I am not in a position to criticize the head  
6 of the CIA or the head of the National Security Council for  
7 what they think is necessary to protect the interests of the  
8 United States. Those men know much more about it than I  
9 do.

10 I have my responsibility and they have theirs.  
11 I think that the judiciary branch of the government must be  
12 respectful to the executive branch in recognizing that they  
13 are doing what they think is in the best interests of the  
14 United States, whether it results in a judgment for the  
15 defendant or the plaintiff in this case, is an entirely  
16 different matter.

17 But I think I must consider--well, I do not  
18 say that I must consider in ruling on it, I must consider  
19 it for the sake of ruling on whether I may consider the  
20 matter which has been submitted. I therefore propose to  
21 read it, and then I want to hear from Mr. Houston, I guess  
22 it ought to be from him rather than from Mr. Connolly on  
23 how much of this he is willing to be shown to counsel for  
24 the defendant and under what conditions he is willing. I  
25 mean, counsel for the plaintiff, and under what conditions



1 he is willing that it be shown.

2 Now, that has to be decided in the light of  
3 the fact that he had shown it to counsel for the defendant,  
4 and I do not know what conditions were imposed upon the  
5 disclosure to counsel for the defendant, and I want to hear  
6 from Mr. Houston about it.

7 MR. CONNOLLY: There is a letter I think was  
8 submitted to everyone, was there not?

9 THE COURT: There is a letter. Yes. Yes,  
10 now, I will read as much as I can so there will be no  
11 question about it. Yes, there is a letter.

12 MR. CONNOLLY: Yes, Mr. Kenney's.

13 THE COURT: Yes, from Mr. Kenney, dated May  
14 31, 1966, addressed to me with a copy to Mr. Connolly, Mr.  
15 Raskauskas and Mr. Houston.

16 "Dear Judge Thomsen:

17 "At the hearing on May 13, 1966 in the case of  
18 Eerik Heine vs. Juri Raus, Civil Action No. 15952,  
19 the Court requested that Mr. Lawrence Houston,  
20 General Counsel of the Central Intelligence Agency,  
21 submit a statement as to the legal authority of the  
22 CIA to engage in activities within the United States  
23 with respect to foreign intelligence sources.

24 "In response to that request, Mr. Houston has  
25 prepared an affidavit which incorporates by reference

1 two pertinent paragraphs of a document which is  
2 classified 'secret' and which cannot be declassified  
3 for purposes of this case. Because of this, Mr.  
4 Houston has requested the Department of Justice to  
5 submit to the Court under seal for in camera  
6 inspection the identification of the document and  
7 the two pertinent paragraphs, properly certified.  
8 The Court, of course, is authorized to make the  
9 classified excerpts available for inspection, but not  
10 for copying, by counsel now of record for the plaintiff  
11 and the defendant. In addition, any of such counsel  
12 will be granted access upon request to the two  
13 pertinent excerpts at the office of Mr. Houston. Of  
14 course, counsel should not disclose the excerpts thus  
15 made available."

16 I take it that Mr. Connolly has availed  
17 himself of the opportunity and has been preserving the  
18 secrecy.

19 MR. CONNOLLY: Yes, Your Honor.

20 THE COURT: --which is covered by the letter.

21 The question then is whether the plaintiffs  
22 are willing to do so also, are willing to do what Mr.  
23 Connolly has done.

24 Well, now let me see if I understand it. Mr.  
25 Houston's affidavit purports to summarize these two classified

1 orders. Are you willing to have your affidavit filed in  
2 court?

3 MR. HOUSTON: The affidavit but not the  
4 attachments, sir.

5 THE COURT: The affidavit without the  
6 attachments.

7 MR. HOUSTON: Is not classified.

8 THE COURT: --may be filed.

9 MR. HOUSTON: Yes, sir.

10 THE COURT: All right. Then I may now--  
11 shall I read it aloud so that--these people have not seen  
12 it, so that anybody in the courtroom or any of the papers,  
13 make your affidavit public but not the two exhibits; is  
14 that it?

15 MR. HOUSTON: Yes, sir.

16 THE COURT: And what you would feel is, as I  
17 understand it, that the actual directives which are  
18 classified should be examined by the Court simply to see  
19 that your affidavit is an honest summary of it; is that  
20 right or a fair summary of it?

21 MR. HOUSTON: It does not purport to be a  
22 summary.

23 THE COURT: Or the effect of it.

24 MR. HOUSTON: It states the law, the  
25 statute from which the National Security Council directive

1 is derived.

2 THE COURT: Well, if that is all, it does not  
3 summarize the directive.

4 MR. HOUSTON: It does not summarize the  
5 directive.

6 THE COURT: All right. Are you objecting to  
7 the effect of the directive or the substance of the directive  
8 being made public or are you objecting to that, only to the  
9 exact wording of the directive being made public?

10 For instance, in some cases that I have had  
11 where matters have been sent out by code somewhere, the  
12 Government has been naturally anxious that the exact  
13 language of a particular document not be made public  
14 because if it were made public somebody could crack the  
15 code by using it.

16 On the other hand, they have not objected to  
17 the substance of a document being made public because a  
18 knowledge of the substance would not enable anybody to crack  
19 the code.

20 So certainly the Government is entitled to  
21 that much protection in every case, and is your objection  
22 narrowly that or do you object to their being made public  
23 the substance of these two directives?

24 MR. HOUSTON: Unfortunately I am not  
25 authorized to make available the substance.

1 THE COURT: But you do not object to your  
2 affidavit being read?

3 MR. HOUSTON: The affidavit as such without  
4 the attachments.

5 THE COURT: Well, I will read the affidavit.  
6 That is the quickest way of advancing that far. We have  
7 advanced through the letter. We will now advance through  
8 the affidavit.

9 "Lawrence R. Houston, General Counsel of the  
10 Central Intelligence Agency, being first duly sworn,  
11 deposes and says that:

12 "One. This statement is submitted in response  
13 to the Court's request for a memorandum as to the  
14 legal authority of the Central Intelligence Agency to  
15 engage in activities within the United States with  
16 respect to foreign intelligence sources.

17 "Two. Section 102 (d) of the National  
18 Security Act of 1947, as amended, provides at  
19 Subsection (4) (550 USC Section 403 (d) (4), that for  
20 'the purpose of co-ordinating the intelligence  
21 activities of the several government departments and  
22 agencies in the interest of national security, it  
23 shall be the duty of the Central Intelligence Agency,  
24 under the direction of the National Security Council  
25 to perform, for the benefit of the existing

1 intelligence agencies, such additional services of  
2 common concern as the National Security Council  
3 determines can be more efficiently accomplished  
4 *En. 10/10* censorially.'

5 "Three. National Security Council action  
6 in implementation of Section 102 of the National  
7 Security Act is set forth in Paragrapf 7 of National  
8 Security Council Directive No. 2, attached to this  
9 affidavit."

10 So it is really not two directives; it is one  
11 directive with an introductory paragraph.

12 MR. HOUSTON: Yes.

13 THE COURT: To the second paragraph. All  
14 right.

15 Now, that does not tell the plaintiffs any  
16 more than it refers them to this document which are really  
17 just part of one document, one introductory paragraph, and  
18 Paragraph 7, with the certification.

19 Now, let me see if I get it clear. You say  
20 that this directive, this paragraph of this directive, bears  
21 on the issue which has been raised by the plaintiffs of  
22 the claimed limited nature of the CIA activities, and you  
23 are willing to let counsel for the plaintiff read this but  
24 not copy it.

25 MR. HOUSTON: Yes, sir.

1 THE COURT: Upon the understanding that they  
2 will not disclose it to anyone else.

3 MR. HOUSTON: That is right.

4 THE COURT: And you are willing to have the  
5 Court read it and you asked the Court to base or to include  
6 this in the material on which the Court will base its  
7 decision on this particular question?

8 MR. HOUSTON: Yes, sir.

9 THE COURT: And you request the Court--I  
10 suppose it is an unusually strong request coming from a  
11 co-ordinate branch of the Government, to reseal the material  
12 after it has been shown to counsel for the plaintiff, if  
13 they are willing to look at it on that basis, and after the  
14 Court has made such use of it as the Court deems proper in  
15 deciding the case, to reseal it and to keep it secret until  
16 the case is over or to send it sealed to the Court of  
17 Appeals for in camera examination by the Court of Appeals  
18 upon the same basis as this Court was looking at it; is  
19 that correct?

20 MR. HOUSTON: That is correct, sir.

21 THE COURT: That is your understanding?

22 MR. HOUSTON: Yes, sir.

23 THE COURT: All right.

24 Now, I will be glad to hear from counsel for  
25 the plaintiff as to why the Court should not follow the

1 course suggested by Mr. Houston.

2 MR. STANFORD: Your Honor, I think that  
3 possibly we can follow the course in connection with this  
4 document as has been suggested, and agreed upon in connection  
5 with the interrogatories. That is, I frankly do not think  
6 that the motion for summary judgment is going to turn on  
7 this point.

8 I think there are many other factors which are  
9 of much greater import.

10 For the reasons that have been stated we do  
11 not like to have to make ourselves available for something  
12 which we cannot tell this man.

13 THE COURT: Well, I understand you do not.

14 MR. STANFORD: As we have stated.

15 THE COURT: "This man" being your client.

16 MR. STANFORD: Yes, sir.

17 THE COURT: And I can quite see it and I  
18 agree, I sympathize with your point of view and agree with  
19 it in the ordinary case. I think there may be exceptions,  
20 and I want to know why. Mr. Houston suggests that this is  
21 an exception.

22 I want to hear from you why you think it is  
23 not an exception.

24 MR. STANFORD: Your Honor, I would ask that  
25 the Court not take this into consideration unless a



1 decision is rendered unfavorable to the defendant in the  
2 motion for summary judgment, and then the defendant makes  
3 the representation to the Court that a review of that  
4 particular document would alter the course of this case  
5 because if that is not necessary you will never have to  
6 make a decision as to whether or not we wish to see it.

7 THE COURT: Well, the Court does not like  
8 to make decisions and then change, and then hear somebody  
9 say that if I had considered this that I would rule  
10 differently. Of course, there are a lot of points in this  
11 case, that summary judgment cannot be granted unless the  
12 Court rules with the Government on all the points in  
13 effect.

14 MR. CONNOLLY: May I suggest something, Your  
15 Honor?

16 THE COURT: Yes.

17 MR. CONNOLLY: I think United States vs.  
18 Reynolds was what I think you familiarized yourself with  
19 before, which deals with in camera inspection and  
20 authorizes the Court, and I think judicial experience has  
21 pointed to the fact that in camera inspections are  
22 sometimes used.

23 A typical example of course is a question  
24 whether or not a party should be entitled to the  
25 production of documents.

1 THE COURT: Yes, Jencks Act material.

2 MR. CONNOLLY: Yes.

3 THE COURT: Which are routinely examined in  
4 camera first.

5 MR. CONNOLLY: Yes, having seen this material,  
6 I think that the plaintiff would be satisfied, and indeed  
7 the plaintiff is entitled to know more than this information  
8 from his counsel.

9 Does this interrogatory answer your argument  
10 as to whether or not the CIA has authority in the fields  
11 they claim?

12 That can be answered to Mr. Heine by Mr.  
13 Raskauskas yes or no after he reads it, and in this limited  
14 field we are dealing with the question of law, and I do  
15 not think that the plaintiff as an individual is entitled  
16 to any more information.

17 This is not a complex matter of fact; this is  
18 a matter of law, and I think that if Mr. Raskauskas wants  
19 a satisfactory response from his client, he can say yes or  
20 no in answer to it.

21 THE COURT: Well, it appears to be without  
22 having read the material that I have been asked not to read,  
23 it appears to me that it is a question of law, that there  
24 is no question of fact involved.

25 Do you disagree with that? Isn't it going

1 to be a matter of construing this directive upon which Mr.  
2 Houston is relying in part at least?

3 I gather that each side is saying that I  
4 should decide the point in their favor of whether or not  
5 this is considered, but I do not see how the plaintiff--  
6 you might win on your motion for summary judgment without  
7 my ever reaching this point quite obviously because if the  
8 defendant loses on any other essential element of his  
9 motion for summary judgment he is entitled, or the plaintiff  
10 is entitled to go ahead with the case, whatever the ruling  
11 on this point would have been.

12 On the other hand, I cannot decide it, I  
13 cannot decide the case in favor of the Government without  
14 deciding the scope of the agency of the CIA, I suppose, in  
15 favor of the position taken by the Government and the  
16 defendant unless I find that that is a completely immaterial  
17 point in the case.

18 Of course, if I find that is an immaterial  
19 point legally, then I could decide it in favor of the  
20 defendant and this whole thing would become immaterial.

21 MR. RASKAUSKAS: Your Honor, there is a very  
22 real problem that we have. Now, I do not say this for the  
23 press; it might be newsworthy. But we have an article  
24 here from a newspaper about a copyrighted article that  
25 Admiral Raborn had in the U. S. News and World Reports

1 several weeks ago. In this article Raborn said:

2 "Any clandestine activities of the CIA are  
3 by direction of the National Security Council and  
4 must have the prior approval in detail of a  
5 committee of the NSC including top-ranking  
6 representatives of the President, the Secretary of  
7 State, and the Secretary of Defense."

8 THE COURT: But that is clandestine  
9 activities. There is nothing clandestine about a man  
10 standing up at a meeting and making the statements that are  
11 alleged to have been made here. So far as I can see there  
12 is nothing clandestine about it.

13 Your complaint is that it was not clandestine  
14 but that it was open and public and damaged your man.

15 MR. RASKAUSKAS: No, we were clandestine for  
16 a year until we were hit with this affidavit of Richard  
17 Helms. We were suing Juri Raus.

18 And if I may continue on my point, Your Honor,  
19 that is one point, but another point is--

20 THE COURT: I do not understand what you say  
21 is clandestine that they were doing. This is not the  
22 Agency.

23 MR. RASKAUSKAS: That the Agency was involved  
24 in any way.

25 THE COURT: It does not have to publicize

1 everything it is doing.

2 MR. RASKAUSKAS: We did not say they had to  
3 publicize it.

4 THE COURT: --in intelligence services.

5 MR. RASKAUSKAS: I am not arguing that point  
6 at all. I think the more secrecy the better; but the point  
7 is that such activities are not authorized in the Act in  
8 Title 50, and our point is this, Your Honor--

9 THE COURT: What do you mean by "clandestine"?  
10 How is this clandestine? You mean that they are not  
11 entitled, that the CIA is not entitled to determine  
12 whether a man who has contact with the group, with the  
13 Americans who are in contact with people beyond the Iron  
14 Curtain of a particular group are not entitled to make  
15 contact with people in the United States at all, to discuss  
16 matters with them at all?

17 MR. RASKAUSKAS: We have had no evidence here  
18 that they have had any contact with any foreign group any  
19 place.

20 THE COURT: Well, is it credible that if they  
21 are trying to find out what is going on, or to forget  
22 Estonia for a moment, if they are trying to find out what is  
23 going on in Hungary, that you say they are limited to hiring  
24 spies to operate in Hungary and not talk to somebody in the  
25 United States, a Hungarian refugee, who is getting

1 information from somebody in Hungary by apparent letters  
2 or from a friend apparently innocent but containing a code?

3 It seems incredible to me to say that the  
4 CIA can't, that they are entitled to hire a spy in Hungary,  
5 and can't have the spy in Hungary write to a person in the  
6 United States, but that the spy in Hungary must write a  
7 letter to the CIA and guarantee his being shot--

8 MR. RASKAUSKAS: It is incredible to me  
9 that--

10 THE COURT: --it just does not make sense.

11 MR. RASKAUSKAS: It is incredible to me that  
12 there is any directive that will be found any place, Your  
13 Honor, that authorizes and directs a man to deliberately  
14 assassinate the character of another man.

15 THE COURT: Of course, but that is not the  
16 question; that is a different question. The question is,  
17 that is the question we are coming to in this case, and  
18 that is a different question from the one of whether the  
19 CIA is forbidden to do anything at all in the United  
20 States, which just seems to me incredible that they have  
21 no power to do anything in the United States.

22 I just cannot believe that is the law, and I  
23 certainly would not assume it to be. I assume that their  
24 powers are limited but I assume that they have some powers  
25 to do some things in the United States, certainly to

1 maintain an office and to correlate material which they get  
2 from all over the world, let us say, if nothing else, that  
3 they certainly must do some things in the United States, and  
4 I suppose the correlation of material that they have gotten  
5 from agents throughout the world is not conducted with  
6 route examiners and newspaper reporters present at every  
7 meeting.

8 If that is clandestine, it is clandestine, but  
9 that is not my understanding of what is meant by the word  
10 "clandestine" in the passage that you just quoted.

11 Now, I am not passing on it. I have not got  
12 anywhere the point that you are arguing of whether assuming  
13 they have the right to engage in activities in the United  
14 States they have a right to make deliberately false  
15 statements, if you can show this deliberate, or they have a  
16 right to authorize--well, all right, because we get into  
17 this question of the FBI part of it which ties in to that  
18 also.

19 I mean assuming that there are several steps  
20 it seems to me in this case which have not been as clearly  
21 briefed on either side to me. One of them is, if it was in  
22 the interest of the CIA's general objective to make known to  
23 the Estonian group involved that this man was a spy, assuming  
24 they honestly believed him to be a spy or an agent of the  
25 Russian government, whether they had the right to do it.

1 That is one question.

2 The other question is, and if they honestly  
3 believed it, that is the point. The other one is, and I  
4 think part of the privilege is that if they concluded that  
5 this should be done, the defense takes the position that  
6 the man who is given this task has no choice in the matter  
7 but that he must do it.

8 That point is briefed. The other point is  
9 that where the FBI part comes in which I think becomes a  
10 troublesome question in this case, that I want to hear more ✓  
11 from both the defendant and the Government than I have  
12 heard on that, and that is assuming that Raus had the right  
13 to say this man is an agent of the Russian government, did  
14 he have a right to say, "The FBI has told me this man is  
15 an agent of the Russian government?" When in fact the  
16 FBI had not told him that and what effect the answer to  
17 that might have on whether he has been told to say.

18 That is, if the FBI had not told him this,  
19 is he privileged to say something that he knows is untrue  
20 in this situation because he has either been--you have got  
21 to assume one of two things here, either that the FBI told  
22 him to say that the FBI had told him that or that the CIA  
23 did not tell him to say that the FBI had told him.

24 MR. CONNOLLY: Your Honor--

25 THE COURT: Yes.



1 MR. CONNOLLY: The complaint does not charge  
2 what you just said. The complaint charges Mr. Raus with  
3 having said as follows, "That Heine is a communist and  
4 Eerik Heine is a KGB agent."

5 THE COURT: That is right. I understand  
6 that the complaint does not, but it has come into the case.  
7 There has been a good deal of it, and this FBI business  
8 has come into the case, and to my mind it makes a difficult  
9 problem.

10 They can always amend their complaint.

11 MR. RASKAUSKAS: That does not have to be in  
12 there, Your Honor.

13 MR. CONNOLLY: Well, I think it does in view  
14 of the statute of limitations.

15 THE COURT: You mean that you are not relying  
16 upon the narrow point that I am raising? It would not  
17 probably do your man any good perhaps to win on that  
18 because if he wants to be cleared it does not clear him, it  
19 does not clear him simply to say that the defendant gave  
20 the wrong source of information. It certainly does not  
21 clear him. It makes it appear that the defendant told an  
22 untruth.

23 I hope the newspaper reporters understand  
24 that I am simply talking hypothetically here and not  
25 intimating any opinion whatever on the facts here. I was

1 discussing possible hypothetical situations which may be  
2 shown by the evidence.

3 I think that is an element. The thing that  
4 bothers me, he may be privileged to say that, "This man is  
5 a Russian agent," but he may not be privileged to say, "The  
6 FBI told me that or Mr. So-and-so told me that," if that is  
7 untrue.

8 I think that gets to be a question which is  
9 a troublesome question, and I would not have much doubt  
10 about it in the ordinary government case. When you get  
11 into the question of intelligence and espionage where the  
12 entire nature of the business is secrecy it may be necessary  
13 to make a false statement in order not to disclose the true  
14 source.

15 I have an open mind on that question. I  
16 would like to hear from Mr. Houston on that as well as from  
17 the defendant because it raises very, very troublesome  
18 questions of policy, which are policies not only of the  
19 Agency but of judicial policy in how far individuals may go  
20 in following what may be a proper governmental policy  
21 without taking the consequences.

22 I think it is a troublesome question. Now,  
23 it may be that I am seeing ghosts, that the question is not  
24 sufficiently material to the plaintiff for the plaintiff to  
25 care about it, or it may be that the defendant has some

1 clear answer to the Court's worries. But I am that much  
2 worried. I want to have the point clarified by both  
3 sides.

4 Well, the only thing I think I can do is  
5 this, is this, gentlemen: With respect to the point  
6 immediately before me, the hearing on the in camera filing,  
7 the Court now offers to counsel for the plaintiff the  
8 opportunity to examine the directive of the National  
9 Security Council upon the terms Mr. Houston has offered  
10 here.

11 I cannot say at this time whether I will or  
12 will not after having examined it in camera make any use  
13 of it in the decision. If you wish me to--I think it is  
14 only fair to the plaintiffs to do this, to say that they  
15 would rather, if you wish to delay your examination of  
16 it until the Court has decided other points to the point  
17 that I consider it will be necessary for me to read this  
18 to consider it.

19 If so, when I reach that point in my  
20 deliberations I will get in touch with counsel for the  
21 plaintiff. I would rather have you do it now for this  
22 reason, that having said that I consider it material it  
23 would rather indicate that I have decided every other  
24 point, it might indicate that I have decided every other  
25 point against the plaintiff, although it is possible that

1 the Court might come to the conclusion that some of the  
2 points which would have to be decided might also have some  
3 light thrown on it by this document.

4 MR. RASKAUSKAS: Your Honor, we have to  
5 respectfully decline to look at the secret filing. ✓

6 THE COURT: At any time?

7 MR. RASKAUSKAS: At this time.

8 THE COURT: Do you want me to communicate  
9 to you if I decide that I am going to use this?

10 MR. RASKAUSKAS: Yes, Your Honor. We have  
11 no objection to Your Honor looking at it as long as Your  
12 Honor does not consider it in resolving this case.

13 THE COURT: All right. Well, I understand  
14 I have got to look at it.

15 MR. RASKAUSKAS: But in the face of our  
16 objection we cannot permit the defendant to control our  
17 litigation.

18 THE COURT: It is not the defendant controlling  
19 this; it is the United States Government. So far as the  
20 defendant is concerned he has no right to do it. ✓

21 This is the United States Government through  
22 Mr. Houston. The Department of Justice sent it to me,  
23 not the defendant, and I thought I was careful after I  
24 understood clearly that it was the United States Attorney  
25 that sent it to me to ask Mr. Houston to state the position

1 of the Government and not of Mr. Connolly. ✓

2 All I asked of Mr. Connolly was whether he  
3 took advantage of the same conditions that were offered to  
4 you, and he says he did. He took advantage of looking at  
5 it upon the same conditions that are offered to you.

6 Now, they are offered to you, and you may  
7 take advantage of it or not, to take advantage of it, if  
8 you want.

9 But when I get in to deciding this case I am  
10 very loath to reach this point and then have to send for  
11 you and let you come read it and let you file a brief or  
12 write a memorandum and make another argument and break up  
13 the continuity of my decision on the case.

14 I think I must in all fairness call on you  
15 to make your decision one way or the other now and not  
16 postpone it. The idea that it could be done in two bites  
17 is probably not a good one.

18 MR. RASKAUSKAS: We decline to read the secret  
19 filing at any time and respectfully submit to the Court ✓  
20 that the Court should not consider it in the resolution of  
21 this motion, and as grounds for the same that we have no  
22 opportunity to look at the surrounding directives. We  
23 have no opportunity to cross-examine anyone about these  
24 directives, how they are promulgated, how they are applied.

25 We were fortunate in getting a little

1 information from a copyright article that Admiral Raborn  
2 put out that any action must have prior approval in  
3 detail.

4 THE COURT: It does not say any action; it  
5 says any clandestine action, it must have approval in  
6 detail, and it is not clear to me that exposing--again, I  
7 am not deciding anything--that exposing a Russian agent to  
8 people, assuming a man is a Russian agent, exposing him to  
9 a group of people to whom and to whose friends he might be  
10 more poisonous, or might be no more dangerous, that that is  
11 clandestine. Exposing someone does not fit my idea of  
12 what is clandestine.

13 MR. RASKAUSKAS: I think I would like to  
14 know too, Your Honor, and we would like to find out from  
15 Mr. Houston if there has been a review of this classification.  
16 My honest opinion--

17 THE COURT: Of what classification?

18 MR. RASKAUSKAS: Of this secret classification  
19 on this directive. My honest opinion is that it is over-  
20 classified; there is probably nothing secret in there.

21 THE COURT: Well, I have not read it.

22 MR. RASKAUSKAS: It is an innocuous  
23 paragraph used as a stratagem to control the conduct of our  
24 litigation and to seal our lips.

25 THE COURT: It is not making it secret from

1 you, and there has been no indication from anything said  
2 that your not telling your client about it could  
3 possibly hurt his case.

4 If the Court finds that it could the Court  
5 will take that into consideration in whether the Court  
6 should use it or not, of course. But that is one of the  
7 elements, a purely legal question, and I am at a loss at  
8 this time to see how showing it to counsel in secrecy  
9 could hurt the client's case.

10 If there are facts involved which your client  
11 might know or if there are some other matters which should  
12 be explored further the Court would be glad to hear from  
13 you about them; but your decision, which the Court does  
14 not criticize in any way, puts it beyond your power to  
15 assist the Court in determining what further follow-up  
16 you would be entitled to.

17 I think that must be on the record, that the  
18 Court would be happy to have the benefit of your advice on  
19 what further follow-up would be proper, and if you wish to  
20 change your opinion on whether you will look at it the  
21 Court will be glad to know.

22 I do not think you should decide it off the  
23 cuff sitting here. Why don't you take a week to think it  
24 over and talk to your client about it and let me know in a  
25 week whether you want to look at it under the conditions

1 suggested by Mr. Houston with the possibility of--

2 MR. RASKAUSKAS: Yes.

3 THE COURT: Of a follow-up..

4 MR. RASKAUSKAS: We would like to invite the  
5 attention of the Court to the fact that this position of  
6 ours about the lack of authority by the Agency, there is no  
7 novelty in that position. That came in our very first  
8 pleading. Several pages are devoted to it. And there  
9 was never any response until a little information was  
10 extracted at the last hearing.

11 THE COURT: That is right. The difficulty  
12 with this case is that it is not an ordinary case between  
13 two people; but it is a case between two people in which  
14 the United States and all of the people in the United  
15 States have an interest.

16 That does not necessarily mean that all the  
17 interest is all on the defendant's side. The people have  
18 interests on the plaintiff's side as well; but the Court  
19 must recognize that there are public interests, and when  
20 I say "public interests" I do not mean the interest of a  
21 bureaucrat or a group of bureaucrats but the interests of  
22 all the people of the United States are on both sides of  
23 this case, and the Court has to attempt to do its best to  
24 work out the difficult problems in this case with those  
25 interests of the people involved.



1                   Of course, the interests sometimes conflict.

2           There are conflicting interests.    There are very few  
3           absolutes in this world and very few absolutes in this  
4           government.    The public is interested that the CIA  
5           behaves itself on one thing and that its agents behave  
6           themselves, to put it in the bluntest way, on your side. ✓

7                   The people of the United States are also  
8           interested in seeing that the legitimate intelligence  
9           activities of the United States, which must be conducted  
10          through individuals, are not hampered by a too strick  
11          application of legal principles including the principles  
12          of libel and slander.

13                   Now, I do not pretend to think that any of  
14          these answers are easy, but I have got to do it in both  
15          ways, and I should be happy to have the help of counsel  
16          for the plaintiff, counsel for the defendant, and counsel  
17          for the Government in assisting me in working out these  
18          various problems.

19                   So for that reason I want to give you ✓  
20          another week to finally decide after talking to your client  
21          whether you do want to read this under the conditions  
22          specified.

23                   All right.    Now we can move on to the next  
24          point because I guess I can promise that I will not decide  
25          this case within the next week.    It is going to take some ✓

1 study.

2 The next item is, I suppose, the motion to  
3 strike the order allowing the amendment because the amended  
4 answer is part of what is before me on the motion for  
5 summary judgment.

6 Do you wish to be heard further on that?

7 MR. RASKAUSKAS: Your Honor, on our motion  
8 to amend, we will submit it on the brief, the argument.

9 THE COURT: The motion is denied.

10 I am ruling on that so promptly because I  
11 gave it full consideration.

12 MR. RASKAUSKAS: Yes.

13 THE COURT: --before, and if there is  
14 nothing new to be added I adhere to my previous ruling.

15 That brings us to the main purpose, the  
16 motion for summary judgment, and I will be glad to hear  
17 from counsel for the defendant.

18 MR. CONNOLLY: I would have thought that  
19 Your Honor had listened to me on this subject enough, and  
20 perhaps Your Honor has; so I will try to be brief.

21 THE COURT: I will be happy if you and Mr.  
22 Houston will let me have your views on this narrow  
23 question I mentioned of his statement that he was told by  
24 the FBI because it may be--am I seeing a ghost or not?

25 MR. CONNOLLY: I think you are, Your Honor.

1 THE COURT: Or raising a ghost? If I am,  
2 why is it a ghost?

3 MR. CONNOLLY: I think there are several  
4 answers, and I think you have quickly put your hand on one  
5 of them. I think there is no difference, and I think no  
6 jury could find that there is a difference in Mr.--in the  
7 harm that would have been done to the plaintiff if Mr. Raus  
8 said, "Eerik Heine is a KGB agent and I have been so  
9 informed by the Central Intelligence Agency," as opposed to  
10 saying, "Eerik Heine is a KGB agent, and I have been so  
11 informed by the FBI," unless in some way--and I do not see  
12 how any jury can find this as a material difference, would  
13 think that if it came from the FBI it would be more credible  
14 than if it came from the CIA.

15 THE COURT: I certainly do not have to pass  
16 on that, I hope.

17 MR. CONNOLLY: I certainly would not think  
18 so either, and I do not see how a jury could pass on it;  
19 so I say it is damnum absque injuria to say that he was  
20 liabled by being called a KGB agent on information  
21 supplied by the FBI when in fact he was called a KGB agent  
22 where information came from the CIA.

23 I think Your Honor very quickly laid that  
24 point to rest.

25 Moreover, this case is really built on the

1 complaint. Now, the complaint, and this is what brought  
2 us here, and this is what we filed our motion to and what  
3 it was directed to, the complaint does not charge that the  
4 libel consists in being called a KGB agent and a communist  
5 by the FBI. It consists in the charge that was made by  
6 Mr. Raus and contained in Paragraph 5 of the complaint,  
7 the simple fact that Mr. Raus called him a communist and  
8 a KGB agent.

9 THE COURT: Well, that is right.

10 MR. CONNOLLY: Now, if, I say, if they wish  
11 to make the libel consist of Raus having said that, "He is  
12 a KGB agent, and I have been told so by the FBI," then I  
13 suggest that they file a motion to amend the complaint,  
14 and I may wish to oppose it on the ground that that  
15 complaint is barred by the statute of limitations, and I  
16 may wish to deal with it in other respects.

17 I have not put anything in this record to  
18 deal with the facts, if it is one, that he was called a  
19 KGB agent on information supplied by the FBI because I  
20 have considered it immaterial; it is not in the complaint,  
21 and I have not heard that the plaintiff makes a point of  
22 it.

23 I think Your Honor seized upon it, and I do  
24 not think that the plaintiff is saying that that is the  
25 substance of his libel. If it is, I would like to find

1 out.

2 THE COURT: Well, now, for the purposes of  
3 this motion for summary judgment I have to assume that the  
4 charge is not true. That does not mean that it is false  
5 in the sense that it was a fraud that is maliciously made  
6 or anything like that, but for the purposes of summary  
7 judgment when you do not undertake to submit any affidavit  
8 saying it is true I have to assume that the charge is--

9 MR. CONNOLLY: The charge is false.

10 THE COURT: The charge that he is an agent  
11 was false.

12 MR. CONNOLLY: Yes, sir.

13 THE COURT: I have to assume that for the  
14 purposes of this motion because if your right to win  
15 depends upon whether the charge is true or false you cannot  
16 win on your privilege.

17 MR. CONNOLLY: Yes.

18 THE COURT: Because I have to assume that at  
19 least that it is open and therefore that it may be true,  
20 and I think probably I have to assume that it is true, that  
21 it is either a mistake or deliberate.

22 MR. CONNOLLY: Yes. That is correct. That  
23 is the posture of the case.

24 THE COURT: Now, assuming that it is true,  
25 assuming it is true, then he has no real grounds of

1 complaint. Assuming that the charge is false that plaintiff  
2 is an agent, he obviously wants to clear himself.

3 MR. CONNOLLY: Yes.

4 THE COURT: Now, that is where the FBI part  
5 comes in to me. If he is told this, if he is innocent and  
6 he says that the FBI has said this, and he gets in touch  
7 with the FBI and the FBI says, "We never said any such  
8 thing," that is one thing.

9 If he is not, where does that leave the  
10 situation?

11 MR. CONNOLLY: I think Your Honor departs  
12 here, if I may comment on that.

13 THE COURT: Well, I have got to look at it  
14 from his point of view.

15 MR. CONNOLLY: Yes.

16 THE COURT: I have got to look at it from  
17 the point of view of the people in the United States who  
18 may be erroneously--I am not talking now about deliberate  
19 falsehood because I can see no possible reason why the CIA  
20 would authorize somebody to make a deliberate falsehood if  
21 they did not believe it to be true. I cannot see any  
22 reason why they should.

23 I suppose I have to conceive of the possibility,  
24 but I cannot see any sensible reasons for it, but they can  
25 be mistaken. Everybody has been mistaken sometime.

1 Every agency has been mistaken sometime, but what interest  
2 do the people of the United States have in seeing or being  
3 protected against such mistakes because they are interested  
4 in the career of innocent people as well as we are in the  
5 protection of the--

6 MR. CONNOLLY: May I address myself to these  
7 matters, Your Honor.

8 THE COURT: Yes.

9 MR. CONNOLLY: I think Your Honor departs  
10 from the issues, if I may say so respectfully, which are  
11 properly before you. I think Your Honor has no proper  
12 concern for protecting the people of the United States in  
13 a libel action from untoward activities on the part of a  
14 federal agent.

15 I say, sir, respectfully, and let me point  
16 out to you a complete answer to it: We have in this  
17 country a Federal Tort Claims Act in which the Congress of  
18 the United States has made a policy determination that  
19 permits people to recover damages from the wrongful acts  
20 of government employees or governmental agencies. Congress  
21 has specifically excluded from the ambit of the Federal Tort  
22 Claims Act suits for libel and slander.

23 So the Congress of the United States has made  
24 a policy decision that an agency of the United States, or  
25 indeed the United States itself, shall not be liable in

1 damages for tort for libel and slander.

2 Now, Your Honor may disagree with that, and  
3 indeed I may disagree with it; but unfortunately that is an  
4 area of policy that is not of our concern.

5 THE COURT: It is an expressed exclusion  
6 from the Federal Tort Claims Act?

7 MR. CONNOLLY: That is correct, Your Honor.

8 Now, the next question is, should Juri Raus,  
9 the defendant in this case, respond in damages for having  
10 made a false, defamatory statement, not just false, but a  
11 defamatory statement?

12 Just making a false statement does not  
13 subject one to damages for libel and slander unless it  
14 defames the person, and unless it defames him in a way that  
15 a correct statement would not have done.

16 I think Your Honor got a bit off the track  
17 when you said that Mr. Heine has a right to clear himself.  
18 Certainly he has a right to clear himself, and there are  
19 many, many avenues of approach; but the only proper concern  
20 for this Court, if I may say, sir, respectfully, is to  
21 consider it in the terms of a judicial hearing, in terms of  
22 a cause of action stated and proven in accordance with the  
23 rules of procedure and with traditional concepts and not  
24 some broad forum by which a man can quote clear himself  
25 end quote.



1 THE COURT: Well, your point, as I understand  
2 it, is that the defamatory statement is that he is an  
3 agent of the--

4 MR. STANFORD: A KGB agent, yes.

5 THE COURT: A KGB agent, and that the  
6 defamatory statement is not that the FBI said it or somebody  
7 else said it, but the defamatory statement is that he is  
8 the agent, and the rest is simply evidence.

9 MR. CONNOLLY: Yes, and indeed that is the  
10 way their own papers have framed it.

11 THE COURT: Yes, that is the way they have  
12 framed it.

13 MR. CONNOLLY: And that is the way we have  
14 responded in our own papers.

15 Now, I make no defense at this time, because  
16 this is a hearing on a motion for summary judgment, no  
17 defense on the grounds of proof. Roughly speaking, we say  
18 that suits for libel and slander have two areas of defense.  
19 One is truth, and the other is privilege.

20 Now, at this time, in this proceeding, we are  
21 not defending on truth. We are saying that Juri Raus was  
22 privileged, and the privilege which we have asserted is an  
23 absolute privilege, a privilege which we say finds its  
24 origin in the law, and its most recent expression in the  
25 law is in Barr vs. Matteo and Howard vs. Lyons, namely, that

1 if a governmental employee commits a tort in this case,  
2 and as was true in those cases, the tort of slander, while  
3 he is acting in the scope and course of his employment he  
4 is absolutely privileged.

5 Now, one can debate the merits of that, as  
6 indeed I have with many of my friends, and probably Your  
7 Honor has too over an evening cocktail, and we can indeed  
8 debate the wisdom of giving an absolute privilege to a  
9 governmental employee acting in the scope and course of  
10 his duties.

11 Perhaps on a philosopher's platform I may  
12 take a different view from what I take here; but my job  
13 here is to speak with force and conviction, if I can, on  
14 behalf of my client and to advance such defenses for his  
15 benefit as the law not only allows but indeed encourages,  
16 and the Supreme Court in Barr vs. Matteo and Howard vs.  
17 Lyons dealt with this very difficult problem which Your  
18 Honor so carefully articulated a few moments ago.

19 Indeed, it is a difficult problem to consider  
20 whether to balance the rights of an individual to  
21 exoneration or damages in a lawsuit for an admittedly  
22 wrongful act perpetrated against him, to balance those  
23 against the interests of the United States in having the  
24 functions of its officers carried out in accordance with  
25 directives, and balancing those two admittedly conflicting

1 viewpoints, as the Supreme Court in Barr vs. Matteo and  
2 Howard vs. Lyons says that the greater interest is in the  
3 side of permitting the United States and its officers to  
4 execute its policies and procedures and programs  
5 unencumbered by the threat of a lawsuit.

6 Now, as I say, democrats and republicans,  
7 liberals and conservatives, political philosophers and  
8 political science philosophers can debate that, and indeed  
9 it may be debated again; but I think in view of those two  
10 Supreme Court cases Your Honor should feel compelled to  
11 follow the Barr vs. Matteo and Howard vs. Lyons doctrine.

12 If you do then the only point of inquiry in  
13 this whole case is whether the record establishes that  
14 Juri Raus when he spoke of Eerik Heine in a defamatory  
15 fashion was acting in the scope and course of his employment  
16 on behalf of the Central Intelligence Agency.

17 Now, when we come to consider this question--

18 THE COURT: And whether it was within the  
19 scope of the business of the Agency.

20 MR. CONNOLLY: I was going to say that.

21 THE COURT: To be within the scope it must  
22 be within the scope of his duty and within the agencies.  
23 There must be some limit to which--well, the Postmaster  
24 General or somebody in the Post Office Department could  
25 talk about military affairs or vice versa.

1 MR. CONNOLLY: And when we come to consider,  
2 however, the scope of the Agency we must remember the  
3 language which the Supreme Court used in Barr vs. Matteo  
4 and Howard vs. Lyons.

5 THE COURT: Yes.

6 MR. CONNOLLY: The question is whether it is  
7 within the outer perimeter.

8 THE COURT: Yes.

9 MR. CONNOLLY: Now, Mr. Raskauskas--

10 THE COURT: The outer perimeter, dealing  
11 with the Agency or the individual?

12 MR. CONNOLLY: Correct.

13 THE COURT: Or both? Which?

14 MR. CONNOLLY: Both.

15 THE COURT: The outer perimeter would apply,  
16 you think, both to the individual and--

17 MR. CONNOLLY: I think they are synonymous,  
18 Your Honor.

19 THE COURT: Well, of course, the individual--

20 MR. CONNOLLY: An individual has to act  
21 within the scope of his authority, and the scope of his  
22 authority must be bound by the statutes and constitution of  
23 the United States, and if it is beyond that or beyond the  
24 outer perimeter of that authority, then it is unilateral  
25 action, individual action and not governmental action. I

1 think they are coincident.

2 THE COURT: Well, I am not so sure. A  
3 charwoman is employed, say, by the Department of Justice,  
4 but there are certain things that she might say that would  
5 not be entitled to privilege because of her job.

6 MR. CONNOLLY: Yes.

7 THE COURT: And there are certain things  
8 which are--perhaps it is an unfortunate choice because it  
9 gets into all the others, but there are certain things  
10 that the military does that have nothing to do with some  
11 of the other departments. There are certain things some  
12 of the other departments have to do that have nothing to  
13 do with the military or with each other. It seems to me  
14 that you must have the scope of the agency authority and  
15 whether the scope of the individual's authority within the  
16 Agency are two separate points.

17 MR. CONNOLLY: In this case I do not think  
18 you have that problem.

19 THE COURT: It seems to me that both must  
20 be met unless you have some authority to the contrary.

21 MR. CONNOLLY: No, I do not think we need  
22 to concern ourselves with that because in this case through  
23 the affidavits of Mr. Helms, and indeed through the testimony  
24 of Juri Raus himself, it appears that he was acting under  
25 orders, and he was acting on a job that was committed to

1 him by the Central Intelligence Agency.

2 Now, there is no dispute in this record of  
3 those facts, and Mr. Raskauskas takes the point, "Well, my  
4 discovery rights were curtailed because although I do not  
5 have any other sources to prove that he was not, I have not  
6 been able to explore those statements/Mr. Helms and Mr.  
7 Raus as deeply as I might."

8 Well, I suggest to Mr. Raskauskas and to Your  
9 Honor that he has had all the rights which the law allows  
10 him. His right to take a deposition is to be found, and  
11 indeed his right to engage in discovery through interrogatories  
12 is governed by Rule 26 of the Federal Rules of Civil  
13 Procedure.

14 Rule 26 provides that depositions may be taken,  
15 and Rule 33 provided that interrogatories may be  
16 asked on matters as to which inquiry may be properly made  
17 in accordance with Rule 26 (b), and what does Rule 26 (b)  
18 provide?

19 It says:

20 "The deponent may be examined regarding any  
21 matter, not privileged, which is relevant to the  
22 subject matter involved in the pending action."

23 Now, obviously I did not mean to read that.  
24 Every lawyer knows that his right of discovery is limited  
25 to investigate nonprivileged matters. So that if Mr.

1 Raskauskas cannot obtain certain information because it  
2 falls within a recognized form of privilege, then that is  
3 too bad.

4 For example, we can use a homely example: If  
5 Mr. Raus had taken the Fifth Amendment and a claim of  
6 privilege against self-incrimination, Mr. Raskauskas  
7 obviously could not be heard to complain that he did not  
8 get a fuller deposition.

9 The claim of any privilege, whether privilege  
10 against self-incrimination, the privilege to protect  
11 governmental secrets, the husband and wife privilege, the  
12 penitent-confessor privilege, that involving lawyer and  
13 client, or patient and physician always forecloses some  
14 sort of inquiry and always prejudices the person against  
15 whom the privilege is raised; and that person always can say,  
16 "But for this claim of privilege I would have the opportunity  
17 to prove the truth."

18 But there again the law of ancient times has  
19 made the decision and has balanced the interests and of  
20 the public at large to protect these kinds of relationships  
21 and has denied inquiry.

22 So Mr. Raskauskas on behalf of the plaintiff  
23 cannot legally complain. He can make a claim in the  
24 public press or on a public platform, but he cannot legally  
25 complain that he has not had all the discovery which the

1 law allows him.

2 Now, that being so, if we have clear record  
3 evidence that is not disputed, and I will even go so far  
4 as to say not capable of being disputed, that Juri Raus at  
5 the time he spoke of Eerik Heine was acting in the scope and  
6 course of his employment of the CIA we have only the  
7 remaining question, which I think Your Honor put your  
8 finger on at the last hearing, does the CIA have the  
9 statutory authority to send an agent into an emigree unit  
10 with information to communicate to that emigree community  
11 the fact that a person they suspect of being a KGB agent  
12 is a KGB agent?

13 I think that this, as Your Honor so well  
14 articulated a few moments ago, this is a legitimate,  
15 obviously a legitimate function of the Central Intelligence  
16 Agency.

17 An emigree community in the United States,  
18 such as the Estonian emigree community, may very well be  
19 a source of foreign intelligence information.

20 The statute organizing the Central Intelligence  
21 Agency, Title 50, Section 403 (d) (4) specifically provides  
22 that the Central Intelligence Agency has the right to  
23 protect foreign intelligence information sources.

24 Obviously, one of the ways of protecting a  
25 foreign intelligence source is to keep that foreign



1 intelligence source being, as in this case, an Estonian  
2 emigre unit, to keep it from being infiltrated by an  
3 enemy agent.

4 THE COURT: This right to protect foreign  
5 intelligence agency sources, is that referred to in your  
6 brief?

7 MR. CONNOLLY: Yes, it is also the statutory  
8 language.

9 THE COURT: I say, you said it is the  
10 statute. The statutory language is in your brief?

11 MR. CONNOLLY: Yes, sir. That is correct,  
12 Your Honor.

13 THE COURT: All right.

14 MR. CONNOLLY: Now, we go one step further,  
15 and I think Your Honor will see that there is even more  
16 expressive authority to be found in the filing which was  
17 submitted, and which Your Honor will consider in camera,  
18 about which I think it would not be proper for me to  
19 comment; but I suggest to Your Honor, as I say in my brief,  
20 it has already been filed publicly. I think that gives  
21 the complete answer indeed to the question of whether the  
22 CIA has had the direct statutory authority referred to.

23 That being so, as I say, philosophers may  
24 well differ as to the wisdom of this; but if Your Honor is  
25 to follow adjudicated cases, to follow the principles of law

1 already laid down, I think Your Honor has no recourse but  
2 to grant summary judgment in this case.

3 THE COURT: Let's take a five minute recess.

4 (Thereupon, there was a short recess taken,  
5 after which the following occurred:)

6 MR. STANFORD: May it please the Court, the  
7 case of Barr vs. Matteo, and continued, and in fact quoted  
8 in the preceding case of Gregoire vs. Biddle, which set  
9 forth the privilege enjoyed by governmental officers of  
10 high rank. The Barr vs. Matteo and Howard-Lyons decisions  
11 extended this same privilege, which has been spoken of by  
12 the defendant, to officers of lesser rank.

13 It did not however in any of the decisions  
14 of the Supreme Court, or either of the decisions, Howard  
15 vs. Lyons or Barr vs. Matteo, say that this was extended  
16 to all persons who were government employees; nor certainly  
17 to any persone who were connected remotely or by some  
18 tenuous cord to the government, or in particular, the CIA.

19 So we must examine with great care as to  
20 whether the defendant in this case fits the prescription  
21 of Barr vs. Matteo in its modification of the privilege  
22 set forth in Gregoire vs. Biddle.

23 Now, the principal reliance of the defendant  
24 is upon the affidavit of Richard Helms, the three affidavits,  
25 each one stating that it could give no further information,

1 and each succeeding one giving further information, quite  
2 like Agent 86--I think there is a program Maxwell Smart,  
3 which makes some preposterous statements, and there after  
4 modifies this somewhat down and says, "Would you believe?  
5 Would you believe that he was a government employee based  
6 upon this statement," and when that is not sufficient for  
7 the Court it is expanded and additional information is  
8 given.

9 These very statements and affidavits contain  
10 a denial that further information can be given. We have  
11 four of them now.

12 We have three which were made by the then  
13 Deputy Director, presently the Director, Richard Helms,  
14 and the fourth by Admiral Raborn when he was the Director.

15 Each one of these affidavits has circumscribed  
16 itself, and a further limiting of testimony has been  
17 brought out on the stand during Raus' deposition.

18 THE COURT: What do you mean? There has  
19 been--

20 MR. STANFORD: There has been an exercise  
21 of the governmental--

22 THE COURT: Objection.

23 MR. STANFORD: Objection on the grounds of--

24 THE COURT: You said a further restriction.

25 I mean it was not restricted below, below what the Court

1 had--the Court has been trying to open up as far as it  
2 can.

3 MR. STANFORD: Yes, sir.

4 THE COURT: --can be done.

5 MR. STANFORD: Just as a further illustration,  
6 during Raus' deposition that the Government in the exercise  
7 of its powers not to disclose a secret or security  
8 information would permit and allow no further information  
9 concerning the employment, if there was such of Juri Raus.

10 THE COURT: Yes.

11 MR. STANFORD: Now, we are dealing here with  
12 Rule 56, which is a motion for summary judgment, which in  
13 essence a micro-trial, a small epitomization, if you might  
14 call it that, of the full trial; and more cannot be achieved  
15 during a motion for summary judgment than could be obtained  
16 in a full trial of the case.

17 It merely shortens the time and eliminates  
18 the expense and trouble to the Court and the parties  
19 going through a full trial.

20 But let us imagine an extension of this case  
21 to a full trial and see where the affidavits and the  
22 statements under oath of Richard Helms and Admiral Raborn  
23 would inure to the benefit or detriment of the defendant.

24 Let us put Richard Helms on the stand on  
25 behalf of the defendant and have him state exactly what he

1 has stated in those three affidavits, and at the conclusion  
2 of those statements, which would be for the purposes of  
3 this motion identical to his affidavits, he would then be  
4 turned over for cross-examination as any witness who  
5 appears in a case is turned over for cross-examination.

6 And when counsel for the plaintiff begins to  
7 cross-examine and asks for the basis of these statements,  
8 many of which we claim to be conclusory anyway and not  
9 merely fact statements, but goes in further--

10 THE COURT: Which ones? Which ones are not  
11 facts?

12 MR. STANFORD: Your Honor, I will point them  
13 out if I could.

14 THE COURT: All right. I will not interrupt  
15 you.

16 MR. STANFORD: Well, the fact, the statement  
17 that he was within the course of his employment is certainly  
18 a conclusion which is the Court's and not the affiant's,  
19 because that is an ultimate fact which is to be determined  
20 by the Court, and that certainly is a conclusion which has  
21 been reiterated through all these affidavits, and not a  
22 fact or a statement which could be produced from the  
23 witness stand as credible factual evidence upon which the  
24 Court would make a decision.

25 So let's get back to the witness stand where

1 we have Richard Helms who is making a statement of exactly  
2 what he said in those three affidavits; and then we have  
3 counsel for the plaintiff beginning to cross-examine, not  
4 too dissimilar to the cross-examination or examination of  
5 Juri Raus at the time of his deposition.

6 And he asks Mr. Helms, well, about his  
7 employment, was he signed up as an employee and put in a  
8 regular pay grade?

9 And Mr. Helms or Mr. Houston or Mr. Maroney  
10 or Mr. Kenney, or whoever is concerned, says, "That cannot  
11 be answered," and Mr. Helms in following his own directive  
12 or that of the Justice Department, refuses to answer or  
13 does not answer, then we are in a position of having all  
14 of his testimony subject to being stricken because you  
15 cannot have the statements of the individual from the  
16 witness stand which cannot be cross-examined.

17 THE COURT: Well, except possibly on  
18 questions of privilege.

19 MR. STANFORD: Well, if he has made a  
20 statement from the witness stand, and then there is an  
21 attempt to cross-examine on that question, and the  
22 individual cannot answer that question, then the entire  
23 testimony which is not subject to cross-examination must  
24 be stricken because no testimony can go on the stand and  
25 stand to be considered by the jury unless it is to be

1 cross-examined on.

2 THE COURT: Well, wouldn't that have  
3 changed it in Barr vs. Matteo according to your thought?  
4 They claimed privilege there. There is not any question  
5 that you are stating a general rule.

6 MR. STANFORD: Your Honor, maybe I did not  
7 make it clear.

8 THE COURT: The privilege cases seem to be  
9 an exception to it.

10 MR. STANFORD: Your Honor, maybe I am  
11 talking about two different things, or maybe the Court  
12 misunderstands me.

13 I am not talking about the privilege of a  
14 governmental officer to be immune from suit if he makes a  
15 slanderous or libelous statement in the scope and course  
16 of his duties. I am talking about the interposition of  
17 the Government's refusal to allow this man to make any  
18 further statements.

19 THE COURT: Well, of course, there are two  
20 different kinds of privilege which do make for trouble. I  
21 was taking the decision by the Government that it would be  
22 contrary to the interests of the United States to disclose  
23 more than certain amounts of fact as being an executive  
24 privilege. It is a different privilege, of course, from  
25 the one we were talking about.

1 MR. STANFORD: Yes, they throw up a wall.

2 THE COURT: A wall.

3 MR. STANFORD: A glass wall like the old  
4 Colgate ad.

5 THE COURT: If we could find some other  
6 word for it other than privilege, but when the Government  
7 says, "We can only in the interest of security disclose  
8 certain matters and not others," you have an exception, do  
9 you not, to this principle that you have here? Is it not  
10 the exception that allows Barr vs. Matteo?

11 MR. STANFORD: No, Your Honor, I do not  
12 think it is. Maybe I could illustrate it from a different  
13 standpoint.

14 A number of years ago--I think this is  
15 somewhat related to an Agatha Christie mystery, the "Ten  
16 Little Indians"--but I will enlarge that a little bit and  
17 see if we can bring it down to a stand which might allow  
18 us to reach some reality.

19 Suppose you had ten persons on an island and  
20 they were up in a secluded part of the country off the shore  
21 and there is no way to reach the island except by one  
22 particular boat, and during the night these ten men are  
23 there one of them was murdered.

24 So the other nine learned of this or became  
25 aware of it, all of them became aware of it, and they called



1 the authorities on shore, and the authorities came over  
2 with say, six jurors or venirmen, or twelve for that  
3 matter, and defense and prosecution, and a chief of police,  
4 and suppose they came over and arrested one person.

5 Or, let us bring a clergyman over. Let us  
6 say they brought a priest over on this island, and let us  
7 pretend that all these people over there, the other nine,  
8 are all Catholics, and they get over to the island, and  
9 the chief of police decides that one person has a motive,  
10 a very strong motive, and therefore accuses him, and they  
11 begin in this particular jurisdiction to have a trial  
12 immediately.

13 But just before they do the other eight  
14 people who are there suddenly get the urge to go to  
15 confession, and they all do. They go to confession to  
16 the priest, and the defense attorney, and the man who is  
17 accused, talks to the priest, and puts him on the stand,  
18 and in defense of this case tries to put over the testimony,  
19 from the priest, that the defendant, the person who is  
20 accused, did not commit the crime.

21 Then the prosecutor cross-examines him on  
22 that and says, "How do you know that? Did one of these  
23 other people confess to you that he had committed the  
24 crime and killed this man?"

25 THE COURT: But he would not be allowed to

1       testify anyhow on your theory.   He would not know, he  
2       would not have any direct knowledge of the facts.

3               MR. STANFORD:   Well, he might have some  
4       statement, he might have some knowledge which is gleaned  
5       from him; but that statement of the priest is not too  
6       dissimilar--and, as a matter of fact, I think it is  
7       identical, to the statements, the very limited statements  
8       in the affidavit of Helms and Raborn because they are a  
9       few fragmentary statements which may or may not sustain  
10      their point--and we feel that they certainly do not  
11      because they never once say that the man was an employee  
12      of the CIA.

13              They say he was employed, which is synonymous  
14      with "used"; but they never say that he was an employee of  
15      the Agency.

16              THE COURT:   Well, all right.   I think that  
17      you probably have your point in this case that he was not  
18      an employee of the Agency but was an agent of the Agency.

19              MR. STANFORD:   That is correct.

20              THE COURT:   Because he was on the payroll  
21      of--they have been unwilling to say that he was on the  
22      payroll of the Agency, that it was the Bureau of Public  
23      Works, I think, and we have all gotten the idea that the  
24      employees of the Bureau of Public Works are used by the  
25      Agency and almost may be in effect employees of the Agency.

1 But they are not claiming that he was on  
2 their payroll; they are not claiming that he was a regular  
3 full-time employee of theirs, or substantially full-time.

4 They say he was employed by them to do it,  
5 which is language consistent with his being an employee or  
6 an agent, and I suppose you are entitled to have the  
7 interpretation of that affidavit most favorably to you,  
8 which would mean that he might be an agent or acting in  
9 the nature of an independent--well, an agent rather than an  
10 employee subject to control in every detail of his work.

11 I mean, you might get that far.

12 MR. STANFORD: Your Honor, we feel that there  
13 has been so much said that it is classically begging the  
14 question that we presume that there is some connection.  
15 However, all of the statements--

16 THE COURT: It is not a question; they have  
17 said there was a connection, and you are entitled to have  
18 it, and whether he is to be called an employee or an agent,  
19 the master and servant relationship, and so on.

20 MR. STANFORD: Well, then it seems that it  
21 brings into clear focus the fact that Barr vs. Matteo does  
22 not exempt people who are independent agents anymore than  
23 they would exempt Mr. Connolly as an attorney.

24 THE COURT: Well, it is only talking about  
25 officers. One of your points is that he is a subordinate

1 agent or a subordinate employee.

2 MR. STANFORD: That is correct, Your Honor.  
3 He certainly is not an officer; he is certainly not even an  
4 employee.

5 THE COURT: An employee.

6 MR. STANFORD: That is correct, Your Honor.

7 THE COURT: But that makes it the CIA, and  
8 I am certainly going to have to rule that he is an employee  
9 of the United States. That is what he is. He is an  
10 employee of the United States, and if in the operations of  
11 an intelligence agency somebody is kept on the payroll of  
12 a different agency does not prevent his being an employee  
13 of the United States and does not prevent his acting on  
14 behalf of the United States in making these answers.

15 MR. STANFORD: We are not raising a great  
16 point about the fact that this is done regularly, Your  
17 Honor. It may well be--

18 THE COURT: You mean what?

19 MR. STANFORD: That he may have a connection  
20 in some way.

21 THE COURT: Obviously.

22 MR. STANFORD: That is right.

23 The point is, for the purposes of this  
24 motion any statements which happen to be made by Helms or  
25 Raborn or Raus himself are not subject to cross-examination.

1                   Now, this governmental privilege not to have  
2 information disclosed acts as a wall; it does not take  
3 sides.

4                   THE COURT:     That is correct.

5                   MR. STANFORD:   It does not say because of  
6 this one party will suffer or the other party will suffer;  
7 it just says, "That information will not be disclosed."

8                   Now, what is the result of that?   All  
9 throughout this case it has been, "Well, that is just too  
10 bad for the plaintiff."

11                   But unfortunately for the defendant it should  
12 be and it is too bad for him because he cannot get credible  
13 testimony, testimony which would be good in court, to have  
14 Richard Helms get up on this stand and say, as he said in  
15 his affidavit, and if I may read from it, which is from  
16 Paragraph 8 of his second affidavit:

17                   "On those occasions specified in Paragraph 5,  
18                   6, and 7, of the complaint, defendant was furnished  
19 information concerning the plaintiff by the Central  
20 Intelligence Agency and was instructed to  
21 disseminate such information to the Legion so as to  
22 protect the integrity of the Agency's foreign  
23 intelligence sources."

24                   That is probably the one area which the  
25 defendant would take himself into, and that is a statement

1 of fact, but there there is, if that statement is not  
2 subject to cross-examination, and you ask Richard Helms  
3 when he is on the stand, "Who instructed him? Did this  
4 man who instructed him, was he a member of the CIA? Did  
5 he have the power to do this?" Not that we are inquiring  
6 into something.

7 THE COURT: Well, the point is clear. You  
8 made that point then, and did not the Court say that that  
9 language was not sufficiently clear, and wasn't it clarified  
10 in a subsequent affidavit?

11 MR. STANFORD: It has never been clarified,  
12 Your Honor, to the extent that regardless of whether there  
13 has been any so-called clarification.

14 THE COURT: Well, wasn't it made more  
15 specific?

16 MR. STANFORD: Your Honor, I really do not  
17 want to get to that point because I think that is an  
18 entirely different argument that we have, which I think is  
19 a valid one; but the point I am making is that no matter  
20 what is said, no matter how clear these statements are, if  
21 these statements had the name, rank, and serial number of  
22 the person who instructed him and tell exactly when, where,  
23 and the exact words used, if it was far clearer than they  
24 put down in the four affidavits, and the man got up on  
25 the stand and made those extremely clear statements, no

1 matter how clear they were, and then they were submitted  
2 for cross-examination, and no cross-examination can flow  
3 from it, all of those statements must fall.

4 THE COURT: Well, I do not know that that  
5 is true when you have this wall that you speak of. The  
6 Government has some powers.

7 It would be true in the ordinary case, but as  
8 I read these cases there is some exception allowed in cases  
9 where the Government for the interest of all of the people  
10 is given a certain privilege, and is given the right to  
11 require a man not to answer.

12 If Raus answered these he would be subject  
13 to imprisonment, would he not? There are penalties which  
14 might run not only to this charge but to imprisonment.

15 MR. STANFORD: Your Honor, I am not going to  
16 argue that point; I am in full accord with that, and I  
17 think that should be true.

18 That is the point I am making is not the fact  
19 that the Government should be allowed to interject and  
20 throw this wall down. I think they should be allowed to  
21 do it.

22 THE COURT: Well, but you have been arguing,  
23 and it seems to me you have been knocking down a straw  
24 man, and I think you knocked down back early in April, and  
25 that then the Government supplied a third affidavit, or

1 the affidavit of April 25, 1966, which answers, which is  
2 not as vague as the one that you had.

3 Now, they still would not apparently agree to  
4 go further than that on cross-examination; but it does not  
5 leave it vague. The affidavit on April 25, 1966, which is  
6 perfectly specific, that: *April 22*

7 "Prior to those occasions specified in  
8 Paragraphs 5, 6, and 7 of the complaint in this  
9 action, the defendant, in a series of conferences,  
10 was furnished information by the Central Intelligence  
11 Agency to the effect that Eerik Heine was a  
12 dispatched Soviet intelligence operative, a KGB  
13 agent. The defendant was instructed to warn  
14 members of Estonian emigre groups that Eerik Heine  
15 was a dispatched Soviet intelligence operative, a  
16 KGB agent. The purpose for this instruction was to  
17 protect the integrity of the Agent's foreign  
18 intelligence sources, existing within or developed  
19 through such groups, <sup>in</sup> accordance with the Agency's  
20 statutory responsibility to collect foreign  
21 intelligence and the statutory responsibility of  
22 the Director of Central Intelligence to protect  
23 foreign intelligence sources and methods.  
24 Accordingly, when Juri Raus spoke concerning the  
25 plaintiff on the occasions about which complaint is



1           made, he was acting within the scope and course  
2           of his employment with the Agency on behalf of the  
3           United States."

4           Now, let us say that the last sentence is a  
5           conclusion. That is what you have been talking about, but  
6           you have got the specific--you are saying, "All we have is  
7           a conclusion and no opportunity to get the specific facts."

8           Here he gives you--I agree with you up to  
9           that point that you are entitled to something more specific,  
10          and he gave it to you on April 25th.

11          MR. STANFORD: Your Honor, for the purposes  
12          of this point I do not care if they gave us every single  
13          bit of information in far greater clarity and to a much  
14          greater extent than they have. The only point I am  
15          making is that no matter how extensive the affidavits, no  
16          matter how clear, no matter how crystal all the points are  
17          made, if that person who made the affidavit gets up in  
18          trial, sits on the witness stand, and says all of those  
19          very carefully detailed facts which make it absolutely and  
20          abundantly clear, the point that the defendant is trying  
21          to make, and then the plaintiff's counsel asks him one more  
22          question, and he says, "Stop the music."

23          If there is no cross-examination of the  
24          clearest, finest testimony ever put forth in court, that  
25          testimony cannot stand.

1 THE COURT: That is the general rule, but  
2 the question is whether that applies to situations where  
3 the Government is asserting an absolute privilege.

4 MR. STANFORD: Certainly there is nothing  
5 that indicates that the privilege cuts in either direction.

6 THE COURT: Well, all right. There are no  
7 cases; so this is a case of first impressions which I have  
8 to decide; is that it?

9 MR. STANFORD: That is correct.

10 THE COURT: All right.

11 MR. STANFORD: And if it merely leaves  
12 itself alone, if it does not enter into it at all, then all  
13 of that testimony must fail, Your Honor.

14 THE COURT: I understand your point, and I  
15 think that it is certainly a general rule that you cannot  
16 direct a verdict on the basis of testimony which is not  
17 subject to cross-examination. Perhaps it must be stricken  
18 out. The question is whether that should apply in a case  
19 like this, and if there are no cases either way I suppose  
20 I am going to have to make the first decision on it  
21 subject to it being reviewed.

22 I understand your point that never mind how  
23 specific it is, if you cannot cross-examine you should not  
24 be non-suited or have a judgment entered against you  
25 because of evidence which you are not entitled to cross-

1 examine on. I think that would, subject to various  
2 questions, without making any specific, there is certainly  
3 merit in your argument.

4 The question is, is it offset by arguments  
5 the other way, and that seems to be the question, and I  
6 have a perfectly open mind on it. I just do not know.

7 MR. STANFORD: I think, Your Honor, that I  
8 would just want to say one thing, one final statement or  
9 sentence in connection with that, and that is that we are  
10 not dealing with Eerik Heine and the United States  
11 Government. We are dealing with Heine vs. Raus, and the  
12 United States Government comes in and exercises without  
13 favoritism an exclusion of certain secret material.

14 THE COURT: Yes.

15 MR. STANFORD: So that they leave the parties  
16 where they find them. If it happens to prevent the  
17 testimony from being valid, then that is just too bad for  
18 the defendant.

19 THE COURT: Yes.

20 MR. STANFORD: There has to be an alteration  
21 of the ordinary rule for this to be permitted.

22 However, in this particular case there is not  
23 a clarity, there is not a crystal clear statement in all of  
24 these affidavits, even though there was over a period of  
25 time in the succession of each affidavit some enlargement

1 and a clarification, and as they euphemistically called it,  
2 but further information and a contradiction to their  
3 statement that no further information could be given.

4 THE COURT: Well, all right. The Court  
5 required them to go further. When they said no further  
6 information could be given, it did not mean that there was  
7 no further information in existence. It meant that in  
8 their opinion the interests of the United States did not  
9 permit it, and then when the Court said, "Well, I am not  
10 going to consider that sufficient," they had then to face  
11 the question the policy of the Agency and the good of the  
12 country in view of the ideas or the ruling of the Court,  
13 whether right or wrong.

14 They were faced with a ruling, and they  
15 therefore were faced with a ruling in which they had to be  
16 more specific and were more specific.

17 I think you have got to face the most  
18 specific affidavit. That is all I meant before. There  
19 is no use in arguing. There is no use in arguing the less  
20 specific affidavit.

21 MR. STANFORD: Yes. The third affidavit  
22 which I think is probably the most specific one, which Your  
23 Honor just read, says in Paragraph 2:

24 "Prior to those occasions," and so forth, "the  
25 defendant was furnished information by the CIA to

1 the effect--that Eerik Heine was a dispatched Soviet  
2 intelligence operative, a KGB agent. The defendant  
3 was instructed to warn members of Estonian emigre  
4 groups," and so forth.

5 THE COURT: Yes.

6 MR. STANFORD: Nothing is said in that  
7 affidavit as to who instructed him. They might try to  
8 garner the benefit of the fact that this was told to him  
9 by the CIA; but they specifically have omitted this, and  
10 I cannot believe that the carefully drawn statements which  
11 they have produced for the Court, that this was an  
12 oversight because we have attacked in the two previous  
13 affidavits these repeated, unclear, and ambivalent terms.

14 So that we have that "the defendant was  
15 instructed," but we do not have any information as to who  
16 it was who instructed him.

17 THE COURT: Well, you just cannot take that  
18 sentence. It has to be read in the context of the whole  
19 paragraph. When you read the whole paragraph, as they  
20 say, it makes it clear.

21 MR. STANFORD: Your Honor, I would like to  
22 comment on that.

23 THE COURT: I understand your point on not  
24 cross-examining.

25 MR. STANFORD: Your Honor, I would like to

1 read in connection with that the case which I think is the  
2 latest, the Fifth Circuit case, Fowler vs. Southern Bell  
3 Telephone & Telegraph Company. That is 343 F. 2d. at  
4 page 150, a 1965 case.

5 MR. CONNOLLY: What page?

6 MR. STANFORD: Page 150, and at the top of--

7 THE COURT: What volume?

8 MR. STANFORD: The volume is 343 F. 2d.,  
9 Your Honor, page 150, Fowler vs. Southern Bell Tel. & Tel.,  
10 at page 154, the Court was quoting Norton vs. McShane and  
11 Barr vs. Matteo, and then it went on to say:

12 "The bare, conclusory allegations of the  
13 removal petitions, stating generally that West and  
14 Strasser were acting within the scope of their  
15 employment and in color of office, were inadequate  
16 for this purpose. These allegations were legal  
17 conclusions unsupported by facts."

18 Now, throughout all of these affidavits, their  
19 statements as to the fact that he was within the scope of  
20 his employment certainly are conclusory, and they never  
21 have been clarified even with the so-called clear  
22 statements.

23 Now, if we have to read, as Your Honor has  
24 suggested, that the defendant was instructed by the CIA,  
25 we clearly do not have that; and if we put somebody on the

1 stand and we ask Mr. Helms, "Was he instructed by the CIA  
2 to make the statements?" and then that same wall which they  
3 have put down at this point and said, "Not one more bit of  
4 information can be disclosed," and as we have said, as we  
5 have quoted a case in our brief, counsel must certainly  
6 present all of the information at the time of hearing which  
7 is possible to be submitted, that if we tried to cross-  
8 examine and Helms would have to say in the good faith that  
9 they now proposit to come before us and say that "that  
10 information cannot be expanded," that is susceptible to  
11 several interpretations.

12 THE COURT: Well, what difference would it  
13 make if somebody said, "Tell them at that meeting," or if  
14 they said, "Use your judgment as things developed at that  
15 meeting whether to tell them," and he makes the decision  
16 himself, what difference would it make if he was acting  
17 for the Agency?

18 I cannot believe that these cases like Barr  
19 vs. Matteo can on the question of whether a man has  
20 exercised some judgment himself as to what he should do  
21 and whether he is acting under instructions from somebody  
22 higher up.

23 MR. STANFORD: Your Honor, in all of those  
24 cases there was absolutely no--

25 THE COURT: You have made the opposite point.

1 I mean you can argue either way, of course. You have a  
2 perfect right to argue it either way, but it has either got  
3 to be the same whether he was using some judgment or whether  
4 he is given absolute instructions or whether he has a better  
5 defense if he is using judgment or whether he has a better  
6 defense if he is not using judgment, and you have made one  
7 point of saying it is on one side and another point of  
8 saying it is on the other side, and my disposition is that  
9 it does not make any difference.

10 MR. STANFORD: Your Honor, it serves to  
11 illustrate that we do not know on the basis of all of the  
12 facts presented to us whether this man was instructed by  
13 anybody connected with the United States Government. Now,  
14 this is definitely susceptible to more than one interpretation.

15 THE COURT: What do you mean by "instructed?"  
16 He was instructed by the CIA.

17 MR. STANFORD: Where is that stated, Your  
18 Honor?

19 THE COURT: By the Central Intelligence.

20 MR. STANFORD: I do not see where that is  
21 stated.

22 THE COURT: Well, all right.

23 MR. STANFORD: Unless it is the most liberal  
24 interpretation of the third affidavit to say that the  
25 defendant was instructed; but nobody says who instructed



1 him or that he was instructed by the Central Intelligence  
2 Agency.

3 THE COURT: "Was furnished information by  
4 the Central Intelligence Agency to the effect that Eerik  
5 Heine was a dispatched Soviet intelligence operative, a  
6 KGB agent."

7 That is certainly clear.

8 MR. STANFORD: And then it ends the sentence  
9 with a period and then says, "The defendant was instructed."

10 THE COURT: "The defendant was instructed to  
11 warn members of Estonian emigre groups that Eerik Heine was  
12 a dispatched Soviet intelligence operative, a KGB agent."

13 They do not say he was told to make this  
14 statement at this meeting. They say he was told to warn  
15 them, and he apparently had some discretion, I imagine, as  
16 to how he should do it.

17 But I do not think it makes any difference  
18 of whether they said, "Make this speech at ten minutes past  
19 four at this meeting or make this speech if somebody says  
20 this or make this speech if you think it is necessary."

21 MR. STANFORD: But who are "they?" That is  
22 the point.

23 THE COURT: The CIA.

24 MR. STANFORD: But they do not say that the  
25 CIA instructed him to do that in that third affidavit.

1 They say that the defendant was instructed.

2 MR. CONNOLLY: Your Honor, the purpose of  
3 the instruction was to protect the integrity of the Agency's  
4 foreign intelligence sources.

5 MR. STANFORD: That is a conclusion.

6 MR. RASKAUSKAS: Your Honor, if I may make  
7 one point on this with the Court's indulgence. These  
8 affidavits must be read most carefully. The affidavit to  
9 which Your Honor refers goes on in the next sentence to say:

10 "The purpose for this instruction was to  
11 protect the integrity of the Agency's foreign  
12 intelligence sources, existing within or developed  
13 through such groups, in accordance with the Agency's  
14 statutory responsibility to collect foreign  
15 intelligence and the statutory responsibility of the  
16 Director of Central Intelligence to protect foreign  
17 intelligence sources and methods" period.

18 Now, each and every time through their  
19 pleadings, through their arguments, through the affidavits,  
20 there have cropped out two words that are extremely salient,  
21 and those words are "from disclosure."

22 Now, in the CIA security regulations which  
23 they filed here we have a description of what is protected  
24 information.

25 In this regulation which they have filed in

1 the Act itself in Title 50 the words "from disclosure"  
2 appears, from disclosure to unauthorized--from unauthorized  
3 disclosure.

4 Now, the reasonable inference on that  
5 statement is this: That before something can be disclosed  
6 it must be possessed. Before something can be disclosed  
7 in an unauthorized fashion it must be possessed by some  
8 group or by somebody that has authority to permit the  
9 disclosure.

10 Now, they have twisted the statute around to  
11 try to include an emigre group, not information within the  
12 Agency, the statute says, but they have twisted that around  
13 to try to include an indiscriminate group of people, just  
14 anybody, and say that this is a source that they want to  
15 protect, when in black and white in this regulation, which  
16 I invite Your Honor to read, it specifies what this  
17 protected information is.

18 Now, I submit, Your Honor, that that is how  
19 these affidavits are contrived.

20 THE COURT: Oh, well, I understand. I just  
21 think that there is nothing to that point at all. I think  
22 it is perfectly clear that they were protecting their  
23 sources. Protecting their sources from disclosure, if  
24 they are protecting their sources, of course, they are  
25 protecting. They are not protecting them from disclosure

1 but they are protecting them from being shot which is the  
2 consequence of disclosure.

3 They were trying to protect their sources  
4 from--I think that is perfectly clear.

5 Let me ask Mr. Houston this. Mr. Houston,  
6 would there be any objection, or do you know, you must have,  
7 you must have had something to do with preparing this, with  
8 this sentence, "The defendant was instructed to warn  
9 members of Estonian emigre groups that Eerik Heine was a  
10 dispatched Soviet intelligence operative, a KGB agent,"  
11 immediately following the statement that he "was furnished  
12 information by the Central Intelligence Agency," was that  
13 cagily drawn to exclude a statement that Central  
14 Intelligence had instructed him, or could this be further  
15 clarified or was he instructed by someone at CIA, someone  
16 in authority at CIA to warn members of the Estonian group  
17 that Heine was a dispatched agent, or was he instructed  
18 by somebody not connected with CIA?

19 Do you know the answers?

20 MR. HOUSTON: Your Honor, I do not believe  
21 it would add or detract to put in the words "instructed by  
22 CIA."

23 THE COURT: Well, is there any objection to  
24 doing it?

25 MR. HOUSTON: Not as far as I can see.

1 THE COURT: Well, I suggest that if you can  
2 say, to clarify this, take it out of the passive voice and  
3 put it in the active voice to say that the CIA instructed  
4 him, if that is the fact it would meet this point, and  
5 there is no use in having a vague point if that is so.

6 I gather that you are willing to say that  
7 whether or not you instructed him without saying which  
8 person in the Agency instructed him.

9 MR. HOUSTON: That is correct.

10 THE COURT: Well, I think you should take  
11 that affidavit, and you can file a supplementary affidavit  
12 making just that one change.

13 I had thought, I had drawn the inference that  
14 reading the whole paragraph it seemed quite clear to me  
15 that the next sentence just follows along, and I had  
16 inferred that the CIA was the one that gave the instructions.

17 If the contention is that it is carefully  
18 drawn to make me think that when it is not true I think  
19 that the CIA ought to tell me how much they are willing to  
20 have me know about it.

21 MR. HOUSTON: There is no problem in that.

22 THE COURT: You will take care of that.

23 MR. CONNOLLY: In the interest of time I do  
24 not know whether Mr. Raskauskas would be willing to agree  
25 to that or perhaps Mr. Houston could take the stand right

1 now.

2 MR. RASKAUSKAS: I will say, if Your Honor  
3 please, for the purpose of Rule 56 Your Honor is not  
4 permitted to take any inferences of fact. If it just  
5 appears to Your Honor that there is a question of fact,  
6 that means it has to go to trial.

7 THE COURT: That is why I am asking to have  
8 it clarified. Let's get this thing clear. Let's get  
9 the strongest case that each side can make and let me rule  
10 on it, and then we can go up. Let's not have loose ends.

11 I think it is indicated that this may be a  
12 loose end.

13 MR. RASKAUSKAS: This is manifestly unfair  
14 to the position of the plaintiff because what the defendant  
15 is doing is disclosing this information not on the basis  
16 of--

17 THE COURT: It is not what the defendant is  
18 doing at all. It is what the Government is doing. The  
19 United States is trying to protect the interests of all  
20 the parties, and if something is not clear that can be  
21 clarified in what the Government has supplied the Court  
22 instructs the Government to clarify it or to either tell  
23 me whether he was told, instructed by the CIA or was  
24 instructed by someone other than the CIA.

25 MR. RASKAUSKAS: Well, if Your Honor please,

1 at this time I would like to note an objection to that  
2 fact.

3 THE COURT: All right.

4 MR. RASKAUSKAS: That I cannot accept that  
5 position, that the Government and counsel for the  
6 defendant are working absolutely together in this case.

7 I would like the record to show today that  
8 Mr. Houston is sitting with Mr. Connolly, they are passing  
9 things back and forth. We have pointed out in our brief  
10 that Mr. Maroney who was here as one of the impartial  
11 government lawyers was objecting to the materiality of  
12 questions, which had nothing to do with their question.

13 THE COURT: There is no question that the  
14 CIA is working with the defendant and the defendant is  
15 working with the CIA in the defense of this case. The  
16 Court would be blind if it did not recognize that fact.  
17 That does not alter the fact that the people of the United  
18 States have an interest on both sides of this case, as I  
19 said before, and that the Court has an interest in seeing  
20 that the facts are clarified as far as they can be done,  
21 and I have been doing my best to get them clarified as far  
22 as they could be done for some months now.

23 And I intend to continue. Your objection  
24 is overruled if it is an objection to the permission of  
25 the Government to file a supplementary affidavit.

1 All right. Do you want to continue, Mr.  
2 Stanford?

3 MR. STANFORD: Yes, sir.

4 Your Honor, as a corollary to the argument  
5 concerning the cross-examination we have under Rule 56 (f)  
6 the rule as stated in Moore, Section 5624:

7 "If however the Court is of the opinion that  
8 since the knowledge" with regard to our inquiries to  
9 them--"since the knowledge is in the possession or  
10 control of the moving party, who is of course an  
11 interested party, and that the opposing party may be  
12 able to establish his claim or defense if afforded  
13 the opportunity to cross-examine the moving party in  
14 court or for some other reason the case needs the  
15 full development of a trial, the Court may deny the  
16 motion for summary judgment."

17 And we certainly have not been afforded  
18 examination as is brought out by the interrogatories or by  
19 the examination of Raus, which prevents us from establishing  
20 our position.

21 THE COURT: Well, I think that if you have  
22 been denied certain requests or the right to ask Raus  
23 certain questions because the Court felt that the privilege  
24 asserted by the Government controlled, I take it that that  
25 same privilege would control the answers or would control



1 the questions, the objections and any possible answers  
2 which might be given by Mr. Helms; so that I think you are  
3 entitled to the benefit of that on your motion for summary  
4 judgment, and I do not see any use--I gather both sides  
5 would agree there isn't any use in going through further  
6 motions to that effect, that if Mr. Helms were here, and  
7 you asked him, "Who instructed the defendant?", he would  
8 say, "I will not tell you because I think it is contrary to  
9 the interests of the United States, I will say that some"--  
10 well, if he was going to say someone connected with the CIA  
11 or not, and he would say, "That is as far as I will go."

12 Now, I am going to have to decide this case on  
13 the basis that that is what would happen, and I take it  
14 that is what everybody wants, to try to get these matters  
15 cleared up so that if we do go to trial everybody will know  
16 where they stand.

17 You are entitled clearly to a ruling by the  
18 Court on whether this provision of 56 (f) prevents a  
19 summary judgment, and if it does not prevent a summary  
20 judgment how the Court feels the defendant has gotten  
21 around it or why the Court feels perhaps, another way of  
22 putting it, why the Court feels that it does not prevent it.  
23 The only reason, I suppose, that the Court would feel that  
24 there would be something which would prevent the matter  
25 from being explored further but which did not prevent the

1 amount of disclosure which has been given.

2 That is really the same point that keeps  
3 occurring in various phases, and you are entitled to have  
4 it examined in connection with each of the phases.

5 I quite agree with that. I think this is a  
6 valid point. I understand your point. I do not answer  
7 it because I do not know the answer to it until I have done  
8 some work on it.

9 MR. STANFORD: Your Honor, at this juncture  
10 I would like to see what facts or statements however they  
11 may be characterized, and I am certain that we disagree  
12 with what they are; but taking them as they have been  
13 characterized by the defendant, let's see what facts we need  
14 or what statements we need to see whether we fit into the  
15 matrix of Barr vs. Matteo, which says that this must be a  
16 governmental officer, and that he must when he made this  
17 slanderous or libelous statement have been acting within  
18 the scope of his employment, and I think it is "within the  
19 scope of his duties and within the course of his  
20 employment."

21 Now, I think that those words do not mean  
22 that he was getting paid by some persons or some  
23 organization to do a certain thing. But I think we must  
24 examine them in this way, and I hope that I can set this  
25 forth to the Court.

1                   If a man in the course of his job, say a  
2                   public information officer, which is one of the fact  
3                   situations in one of the other cases which has been quoted  
4                   by the defendant, is a public information officer, and in  
5                   the course of his duties as a PIO makes a malicious  
6                   statement or an untrue or slanderous statement concerning a  
7                   certain person he would according to the decisions be  
8                   exempt because he was a governmental officer, and what he  
9                   was doing was giving public information.

10                   That was the scope of his duties; that was  
11                   within the scope of his job; and as an accompaniment to that  
12                   he committed a slander, either unintentionally or  
13                   maliciously; but it was while he was carrying out his job  
14                   that he did this.

15                   So that it was not his job to slander but it  
16                   was his job to disclose public information, to disclose to  
17                   the public information concerning the Navy Yard, or whatever  
18                   the entity was, and in so doing the slander accompanied  
19                   it.

20                   Now, here we do not have that case because we  
21                   fail to show what the scope of this man's duties was.

22                   They say merely that he was employed, and  
23                   they use it, I say, the same as "used", but even if we take  
24                   the fact that he was an employee, which we say has never  
25                   been set forth.

1 THE COURT: He was an employee of the United  
2 States.

3 MR. STANFORD: Well, the CIA, and it was not  
4 the Bureau of Public Roads that had--

5 THE COURT: Well, no, he was employed by the  
6 Bureau of Public Roads, but isn't it clear here that the  
7 relationship between the Bureau of Public Roads and--

8 MR. STANFORD: No, Your Honor.

9 THE COURT: --the CIA?

10 MR. STANFORD: No, sir, it is not within the  
11 scope of his duties as a highway engineer for the Bureau of  
12 Public Roads. Nobody says so.

13 THE COURT: No, but the CIA, isn't it clear  
14 that the CIA is using and has used--

15 MR. STANFORD: Certainly, Your Honor.

16 THE COURT: No question about that.

17 MR. STANFORD: No question about that.

18 THE COURT: It is a little hard for me at  
19 this point to separate what I have--the testimony here and  
20 the concessions here from what has been in every newspaper  
21 about it.

22 MR. STANFORD: We make no point of that  
23 whatsoever, Your Honor. He was working for the United  
24 States and he had duties as a highway engineer, and those  
25 duties can clearly be set forth, although we have not found

1 out what they are.

2 But what were his duties in the Agency which  
3 had the authority by statute or by secret paper to get into  
4 these emigre groups?

5 Certainly the Bureau of Public Roads by  
6 itself did not. Maybe the United States through the CIA  
7 did. Let us assume for this that it was.

8 THE COURT: Yes, I understand that you have  
9 not admitted that.

10 MR. STANFORD: But what are they? What are  
11 the duties? What is the scope of his employment in the  
12 CIA? We do not have the facts taken after that which  
13 indicates that there were any scope of duties. All we  
14 have is that he--and taking this as it would be interpreted  
15 by the Court if it were Mr. Houston, that he was instructed  
16 by the CIA to say certain things to a certain group about  
17 the plaintiff.

18 Can we say that this was within the scope of  
19 his duties? We do not know because we do not know what  
20 the scope of his duties were.

21 If there was only one directive that he was  
22 told only to go out and make this statement, go out and  
23 utter this assassination of the character of Eerik Heine,  
24 then we must see whether or not it is possible for the  
25 Agency to issue a slander.

1 Now, it might be said that they certainly have  
2 the authority, and I think Your Honor just said a few  
3 minutes ago, that they have the authority to penetrate  
4 these emigre groups in the United States and make a  
5 statement to protect the sources or to protect sources from  
6 disclosure, however we put it.

7 But if this was a known untruth, if this was  
8 known to the CIA to be an untruth, but they thought it would  
9 have a valid effect, that is not within the scope of the  
10 CIA's powers nor is it within the scope of the duties of  
11 Juri Raus, and it cannot be.

12 So therefore it depends upon our obtaining  
13 the truth or falsity or the presentation by the defendant  
14 of the truth of what they have purportedly sent this man  
15 out to do because, and this casts a little bit of doubt on  
16 whether or not there was truth.

17 In their affidavit, I think it was the second  
18 one, the second affidavit, which says that he was  
19 furnished information to the effect that Heine was a  
20 communist.

21 That is far different from saying that he  
22 was. That shows that maybe they made a conclusion and  
23 maybe they made a mistake, but rather than take the chance,  
24 they say, "Go ahead and confuse it."

25 THE COURT: Well, suppose they do make an

1 occasional mistake. Undoubtedly they must have made  
2 mistakes. How in the world can anybody operate in a  
3 business of that sort--

4 MR. STANFORD: Admittedly, Your Honor.

5 THE COURT: --without making mistakes. The  
6 question is whether the balancing of the interests that  
7 people with whom mistakes, honest mistakes are made must--

8 MR. STANFORD: How do we know that this was  
9 an honest mistake? We give the presumption that--

10 THE COURT: Well, suppose it is a dishonest  
11 mistake?

12 MR. STANFORD: Well, then if it is a  
13 dishonest mistake--

14 THE COURT: I do not mean by--

15 MR. STANFORD: If it is a dishonest mistake,  
16 Your Honor, this man--

17 THE COURT: It is a question of where you  
18 draw the line. How do you prove that a man is not such an  
19 agent? You have got to, you shade, it is not black and  
20 white. How does anybody know anything for sure. If  
21 they--let us suppose that they are ninety-nine per cent  
22 sure that he is an agent, certainly it is their duty to  
23 protect our other sources. At what point does it become--  
24 do you weigh it? Is it on probable cause? Is this a  
25 question of the weight of the evidence that you weigh like

1 you would on a damage suit? Can they say that they know  
2 it beyond a reasonable doubt before they can take steps to  
3 protect?

4 MR. STANFORD: No, Your Honor.

5 THE COURT: You get into a terrible lot of  
6 questions.

7 MR. STANFORD: Let us assume that they do  
8 not, that they do not need certainty beyond a reasonable  
9 doubt or a moral certainty, but even if they have some  
10 vague suspicion that they can do it; but if--which we are  
11 not informed, and we have no way of knowing--if they knew  
12 he was not, or some person within that organization knew he  
13 was not, whether he is loyal or subversive, which is  
14 entirely possible.

15 There is certainly penetration in all phases  
16 of government, both on this side of the iron curtain and on  
17 the other, and I hope there is on the other. But if there  
18 is a person who intentionally had this man slandered, that  
19 cannot in this country be within the scope of any one  
20 person's duties nor within the power of the CIA.

21 And if that were the case, and we do not have  
22 the information one way or the other, because we cannot  
23 make a penetrating inquiry, then--

24 THE COURT: Well, a penetrating inquiry, if  
25 the interests of the United States prevents it, your



1 making an inquiry, then anybody can always recover against  
2 in a case like this because you cannot, because the  
3 Government does not permit it, they do not allow it to go  
4 further.

5 MR. STANFORD: Your Honor, if the United  
6 States wishes to gain information by camera from Russia  
7 they pay a million dollars for a U-2 plane and thirty  
8 thousand dollars a year for Gary Powers to go over there  
9 and get it.

10 If they want to prevent the disclosure of  
11 information to a Russian agent, if that is what they believe  
12 him to be and they wish to take this method of doing it,  
13 they have to pay in the same way, and this may seem unfair,  
14 but it prevents the wholesale assassination of the character  
15 of individuals.

16 THE COURT: But you cannot allow everybody  
17 who is warned, when the Government warns against somebody,  
18 to allow him to sue and to collect damages irrespective of  
19 the truth or falsity when the Government is not in a  
20 position, it is against the best interests not to allow  
21 them to sue the Government, but to go to Congress on that.

22 You say the Government pays a million dollars.  
23 The Government cannot pay in this case because Congress has  
24 said they cannot in so many words.

25 The Congress has said that the Government

1 cannot be sued for a tort of slander and libel. So what  
2 you are saying is--

3 MR. STANFORD: We are not suing the  
4 Government.

5 THE COURT: The only way that this can be  
6 done by making the individuals who work for the Government  
7 pay whether they believe it or not. If they make a false--  
8 what your argument comes to is this, that if a person  
9 acting in the course of his employment makes a statement  
10 that somebody is a spy in the presence of anybody else he  
11 must pay damages for it whether it is true or not because  
12 unless the Government will release him from stating the  
13 facts which he knows to support it.

14 MR. STANFORD: Your Honor--

15 THE COURT: Now, that brings you right up,  
16 and there may be reasons why that should not be, and it may  
17 prevent hardship in one case, but they have to be balanced  
18 against the considerations that were set up in Barr vs.  
19 Matteo. That is what you have to balance. It is not as  
20 easy as all that.

21 MR. STANFORD: Your Honor, if this action  
22 was an intentional wrongdoing--

23 THE COURT: By whom?

24 MR. STANFORD: By the defendant or by others  
25 in complicity with the defendant. We are not charging a

1 conspiracy, of course, or any other person involved, but  
2 even if there was somebody else involved, or even if there  
3 was information obtained or it was maliciously done by the  
4 defendant or anyone else supplying him information of that  
5 sort, then we have the situation where it cannot be within  
6 the course of his duties or the scope of his duties  
7 because it is not possible for duties to involve only the  
8 very act itself.

9 If he was told to go and do something else,  
10 and then in the course of that duty or the scope of his  
11 duties--because we must hearken back to the rationale  
12 behind the rule.

13 The rationale behind the rule was two-fold,  
14 as I see it. One allowed a person in the exercise of his  
15 official functions, an officer, to feel unrestricted and  
16 unfettered by the possibility of suit.

17 THE COURT: It is just as important to allow  
18 an employee to feel unfettered.

19 MR. STANFORD: Well, the Court has not said  
20 that.

21 THE COURT: No, but I cannot see any  
22 difference one way or the other. I do not think there is  
23 any benefit one way or the other. If it was a benefit I  
24 should think it would be for the employee.

25 MR. STANFORD: But regardless of whether the

1 employee, whether he is an employee or an officer, the  
2 rationale behind Barr vs. Matteo and Gregoire vs. Biddle  
3 is that it allows a person in the exercise of his duties,  
4 if he is doing one job, and incidental thereto happens to  
5 make a slanderous statement he should be exempt.

6 Here it was not incidental to anything; it  
7 was the very act itself, because nothing more is stated,  
8 and nothing more is claimed than the fact that he was  
9 pointed like a rocket at that meeting and told to say  
10 certain things.

11 So he was directed like a missile to say  
12 certain things.

13 That was not within the scope of his  
14 employment; that was merely the sending of a message. So  
15 that it was not within the scope.

16 THE COURT: Carrying the message was the  
17 scope of his employment.

18 MR. STANFORD: That means the very act  
19 itself was the total employment, and if that was an  
20 intentionally untrue act then that scope of employment was  
21 solely to do an unintentionally untrue, to make an  
22 intentionally untrue statement that defames the plaintiff,  
23 and that cannot be within the scope of either his duties  
24 or the CIA's.

25 I think that is sufficient on that point, Your

1 Honor; I do not want to belabor it. I think that it does  
2 require considerable thought, but I cannot give any further  
3 explanation of it.

4 THE COURT: I understand your point and I  
5 certainly will consider it. I do not know the answer to  
6 it. I will read all these cases.

7 MR. STANFORD: Now, Your Honor, to get back  
8 to, I think, our second point in our last brief, the fact  
9 that despite these affidavits there still exist numerous  
10 issues of material facts because we have the affidavit of  
11 August Kuklane, and these have not been contradicted by the  
12 defendant.

13 They state that when utterances were heard,  
14 according to Kuklane's affidavit, that they were at a  
15 different time from what Kuklane states. If that is the  
16 case, then there certainly would be for the purpose of this  
17 a different statute of limitations on each one of those  
18 statements, and therefore there was, if there was a  
19 difference in time, there has not yet been a denial or  
20 claim of privilege for the statements which are complained  
21 of.

22 THE COURT: Is limitations part of this  
23 motion?

24 MR. STANFORD: No, Your Honor, but I am just  
25 saying but if there would exist a difference in limitations

1 then there is a different cause of action, and there  
2 certainly would be a different cause of action if we are  
3 complaining of the statements which are attested to by  
4 the affidavit of August Kuklane, and they deny making  
5 statements on a different day.

6 That is like saying, "I happened to see you  
7 out at the baseball game on July 7th," and they say, "I  
8 was not out at the baseball game on July 4th."

9 THE COURT: Well, so far as that point goes  
10 on the dates, their point has to go to all of these dates.  
11 They have to face that.

12 MR. STANFORD: Your Honor, if you cannot claim  
13 that you are not there and also claim that you were in on  
14 a free pass; you cannot claim that you were not at the  
15 baseball game and then say that you were in there on an  
16 "Annie Oakley" because you are either one or the other; and  
17 they are claiming a privilege for a time about which they  
18 deny the occurrence altogether.

19 I think this is a very essential fact. If  
20 this man had a very limited circumscribed scope of duties,  
21 was he given two occasions in which to say, to make the  
22 statement or was he given five, or was he told, given the  
23 general statement to go out and issue these utterances at  
24 all times?

25 That is another point that relates back and

1       hearkens back to the fact that we are not armed with the  
2       scope of this authority and their affidavits do not supply  
3       this information.

4               I think the fact that we get to the very  
5       factual allegations of the complaint which contradict the  
6       answer of the defendant, and the affidavit of August  
7       Kuklane, which is uncontradicted, it is unopposed by the  
8       defendant, we have two different statements.

9               The CIA, or the Government, or the defendant,  
10      have never said that he did not make these statements. He  
11      just blankly says, "If I ever made a statement or if I ever  
12      opened my mouth and talked about Eerik Heine, I want to be  
13      covered with the benediction of governmental privilege."

14              That cannot be obtained in this case, and I  
15      feel that although that may be something which has not been  
16      in the whole ambit of the Barr vs. Matteo considerations,  
17      and everything which goes to feed that particular area,  
18      that it still erects a barrier which prevents the granting  
19      of this motion.

20              I think we will submit on that, Your Honor.

21              THE COURT:   The counsel in the criminal case  
22      are excused until two o'clock, counsel and the witnesses,  
23      and we will take up the criminal case at two o'clock.

24              MR. CONNOLLY:   I have a very brief response,  
25      Your Honor.

1 THE COURT: All right.

2 MR. CONNOLLY: I have a very brief response  
3 to make.

4 Mr. Stanford spent most of his time arguing  
5 in several different respects that if his right to full  
6 cross-examination was curtailed, then all of the testimony  
7 leading up to the point where the curtailment took place  
8 would have to be stricken.

9 Your Honor said that that was strange law to  
10 you in the ordinary situation as you could understand it;  
11 and I take it that what you were saying was that if a man  
12 got on the stand and testified to a story and then on  
13 cross-examination refused to answer questions on cross-  
14 examination the Court would be perfectly justified in  
15 striking the testimony, certainly.

16 Let me put to you this case. If a man got  
17 on the stand and testified to a story on direct examination,  
18 and on cross-examination answered questions about that, or  
19 some questions about that story, and was asked these  
20 questions:

21 "Mr. Witness, did you prepare a memorandum  
22 of the events about which you have described for your  
23 counsel?"

24 Answer: "Yes."

25 "Mr. Witness, may I call for the production



1 of that memorandum which you supplied to your counsel,"  
2 whereupon an objection of lawyer-client privilege would  
3 arise, and I take it that any Court would sustain that  
4 claim of privilege, and I do not know of one Court that  
5 would strike the man's testimony, and that is what has  
6 happened in this very case.

7 Mr. Raus took the stand; he answered questions  
8 as far as the Government would allow him to answer  
9 consistent with the oath which he took and the agreement  
10 which he signed when he became an employee of the CIA,  
11 which is in the record.

12 He had to conform with that on the pains and  
13 and penalties, as Your Honor observed,/to the extent that he was  
14 permitted to testify he did, and to the extent that the  
15 Government claimed the privilege Your Honor considered  
16 whether the claim of privilege was valid or was not.

17 It is true in most instances you supported  
18 the Government, but in some instances you did not.

19 You therefore made a judicial ruling that the  
20 privilege was properly claimed, and I know of no principle  
21 of law which would support Mr. Stanford that when you  
22 support such a claim of privilege you are thereby obligated  
23 to strike all the man's testimony beforehand.

24 Now, I think it is rather preposterous that  
25 Mr. Raskauskas and Mr. Stanford argue from the third

1 affidavit that instructions were supplied to him by someone  
2 else, but we will take care of that.

3 THE COURT: Well, the Court did not find it  
4 preposterous. I had thought it was clear that when it  
5 was pointed out I thought it should be cleared, and Mr.  
6 Houston agreed to clarify it one way or the other.

7 Let us not call names. The case is serious  
8 enough without that.

9 MR. CONNOLLY: The duties which were given  
10 to Mr. Raus, I think, are set forth in Paragraph 2 of the  
11 third Helms' affidavit. There are suggestions here that  
12 either Mr. Raus or the Agency formed some malicious intent  
13 to defame Eerik Heine. I say if the Agency did, it is no  
14 business of this Court in this case. The only question  
15 we are concerned here with is whether Juri Raus formed such  
16 an intent; and even if he had the intent to defame the  
17 plaintiff, and none is charged, that would not get around  
18 the claim of absolute privilege because where you have  
19 absolute privilege the existence of expressed malice does  
20 not make any difference.

21 THE COURT: Well, defamation was charged in  
22 some of these other cases and where the privilege was  
23 allowed.

24 MR. CONNOLLY: But the affidavit we have  
25 here is that:

1 "In a series of conferences the defendant  
2 was furnished information by the Central Intelligence  
3 Agency to the effect that Eerik Heine was a  
4 dispatched Soviet intelligence operative, a KGB  
5 agent," that he "was instructed to warn members of  
6 Estonian emigre groups that Eerik Heine was a  
7 dispatched Soviet intelligence operative, a KGB  
8 agent," and that the purpose of it was to protect  
9 the Agency's foreign intelligence sources existing  
10 within or developed through such groups.

11 That is what he was informed to do; that is  
12 what he was instructed to do, and that is what we admit he  
13 did.

14 Now, one document that I think deserves some  
15 attention is Admiral Raborn's official claim of privilege  
16 which, in addition to that material, contained in the  
17 third Helms' affidavit states, and was filed afterward, he  
18 says:

19 "As shown by affidavits previously filed in  
20 this case by the Deputy Director of Central  
21 Intelligence, the defendant on those occasions was  
22 acting as an employee of the Central Intelligence  
23 Agency and made the statements in question pursuant  
24 to instructions from this Agency."

25 So if there is anything missing in the Helms'

1 affidavit it is supplied by the Raborn affidavit.

2 THE COURT: Well, I think we might just as  
3 well clear up that.

4 MR. CONNOLLY: Certainly, sir; no problem.

5 THE COURT: I think that certainly is  
6 specific.

7 MR. CONNOLLY: Just one other thing: Barr  
8 vs. Matteo and Howard vs. Lyons deal with--

9 THE COURT: I think it is important to do  
10 it because Raborn is a claim of privilege and is under  
11 oath.

12 MR. CONNOLLY: Yes, sir.

13 Barr vs. Matteo and Howard vs. Lyons deal  
14 with cases where the officer who made the defamatory  
15 statement did not act under orders; they acted in pursuit  
16 of their own discretion. In those cases the Supreme Court  
17 recognized the claim of absolute privilege.

18 If that is so, how much more justified is  
19 the claim of privilege when the officer acts pursuant to  
20 instructions? And in closing let me say that Professor  
21 Wigmore makes this very clear.

22 MR. STANFORD: Section 2368.

23 MR. CONNOLLY: When he says--

24 MR. STANFORD: It is in the supplemental  
25 memorandum.

1 THE COURT: Is it in one of your recent  
2 briefs?

3 MR. CONNOLLY: Yes, Your Honor.

4 THE COURT: Well, my law clerk will find  
5 it.

6 MR. CONNOLLY: It will just take me a second.

7 Yes, "Wigmore On Evidence, McNaughton  
8 Revision" Section 2368.

9 It says:

10 "A subordinate or ministerial official--i.e.  
11 one who acts under the orders of a superior official--  
12 is absolutely exempt from liability if the harm done  
13 by him is done solely in implicit obedience to an  
14 order lawful upon its face."

15 Now, Barr vs. Matteo and Howard vs. Lyons go  
16 one step further and say even where there is discretion  
17 involved the claim of privilege exists.

18 So I think there is nothing to this point  
19 that you can distinguish Barr vs. Matteo because Juri Raus  
20 acted under orders. Indeed if he had discretion to libel  
21 or to make a defamatory statement concerning Mr. Heine, if  
22 he did it under orders clearly he is as well covered by  
23 the statute.

24 MR. STANFORD: Your Honor, very briefly on  
25 that last point, in that particular quote Wigmore is like

1 a sky hook; it is attached to nothing. I do not see any  
2 case law on that. As a matter of fact, it just sort of  
3 stands out there, and I do not know what basis there is.  
4 Wigmore quotes no cases, and there is no authority for it,  
5 and I do not know if that applies to tort law where some  
6 superior officer says, "Pull a certain handle," and as a  
7 result of that somebody is injured, that clearly that agent  
8 was not responsible if he did not know it.

9 THE COURT: You say it is something like  
10 what we used to call a mule case around here, without pride  
11 of ancestry or hope of posterity.

12 MR. STANFORD: That is about right, and not  
13 only that, Your Honor, but I think again we are asked to  
14 beg the question obviously by saying that this was an order  
15 which was given in good faith on its face.

16 We do not have that because of the fact that  
17 even in the affidavits they said that he was told "to the  
18 effect that" Heine was a spy, not saying that he was and  
19 not saying that he was given a message in a capsule.

20 THE COURT: Yes.

21 MR. STANFORD: And as to that illustration  
22 of the witness who had a memorandum or had given a  
23 memorandum to his lawyer, I think we have a clear distinction  
24 which shows that they are not at all comparable.

25 Note that the distinction is this: That is

1 a witness privilege rule whereas this governmental privilege  
2 not to disclose information is entirely apart from and  
3 unconnected to the witness.

4 It is not a privilege which the witness has;  
5 so that they are therefore clearly distinct, and any  
6 comparison between the two is, I think, improper.

7 MR. CONNOLLY: The answer to that is self-  
8 evident. If the witness should not be punished when he  
9 himself relies on it certainly he should not be punished  
10 when somebody else enforces the privilege on him.

11 MR. STANFORD: It is not punishment, Your  
12 Honor, because it is not considered to be punishment in  
13 either direction. It is the fact that the wall falls, and  
14 it is just the way it comes down.

15 If it happens to punish the defendant that is  
16 too bad; but the privilege is not intended to punish either  
17 party, but to leave them where they started.

18 THE COURT: Well, I think you can all keep  
19 on exchanging these blows, but I think I will have to ring  
20 the bell at this point and come in and break it.

21 Well, I understand that everything has been  
22 filed that is going to be filed except the supplementary  
23 affidavit from Colonel Houston.

24 I want to thank both sides for the briefs  
25 that have been filed. They are very admirable briefs

1 because they are brief. They cover a lot of points and  
2 say what you have to say and cite the important cases, and  
3 there you are, and it has been very helpful to the Court.

4 All right.

5 (Thereupon, the hearing was concluded at 1:01  
6 o'clock p.m.)

7 - - - - -

8 Certified to be a true and correct transcript  
9 of the proceedings in the above case.

10 *Marci J. Davis*  
11 Official Reporter



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Copy of attached sent to Kevin Maroney  
on 25 October 1966.

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LRH - Col. White has been briefed on this.

JSW

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

EERIK HEINE,

)

Plaintiff,)

v.

)

Civil Action No. 15952

JURI RAUS,

)

Defendant.)

MEMORANDUM IN REPLY TO PLAINTIFF'S  
BRIEF IN OPPOSITION TO DEFENDANT'S  
MOTION FOR SUMMARY JUDGMENT

The plaintiff's most recent brief, transmitted under date of July 7, 1966, does not require an elaborate reply.

The defendant's position has been repeatedly and clearly stated: Juri Raus, when he uttered defamatory remarks of the plaintiff was absolutely privileged to do so since, when he spoke, he was an employee of the United States acting within the scope of his employment in the specific discharge of his duties. Under a plethora of case law, developed by the various circuits following Barr v. Matteo, 360 U.S. 564 (1959) and Howard v. Lyons, 360 U.S. 593 (1959), the motion for summary judgment should be granted.

At the last court hearing on the motion, the plaintiff was asked to synthesize his position somewhat in the fashion adopted by the defendant in his "Supplemental Memorandum of the Defendant in Support of His Motion for Summary Judgment" (Tr. 61, 5/13/66). Presumably the plaintiff's filings of July 7 is in response to that request. However, the points raised are unsubstantial and insufficient to defeat the motion. Each will be separately discussed:

1. The Amendment to the Answer Was Properly Allowed

The plaintiff suggests that this Court reconsider its Order of March 23, 1966 permitting the filing of an Amended Answer, in which he raised

the defense of absolute privilege. Plaintiff argues that the defendant's evidence as to why the Central Intelligence Agency refused to permit the defense to be raised earlier is insufficient.<sup>1/</sup> But he does not dispute the fact that the defendant was refused permission. Mr. Prettyman's testimony (Tr. 70-71, 3/11/66) clearly establishes this aspect of the matter, and that Raus was bound by the discipline of his service as by his "Secrecy Agreement" of May 29, 1963.<sup>2/</sup>

The merits of the Agency's refusal of permission is therefore quite immaterial.<sup>3/</sup> The Agency is not a party defendant. Since the defense is personal to the employee, he should not be deprived of a meritorious defense which he was not at liberty to assert earlier. A disallowance of a right of amendment, under these circumstances, would punish the defendant for an omission not of his making and would run counter to the liberal policy of Rule 15, F.R.C.P., favoring amendment.

## 2. There Are No Material Facts in Dispute

The plaintiff suggests that several facts are in dispute and that this circumstance precludes summary judgment.

The defendant says there are no factual disputes in the record and that whatever differences may apparently exist are not material and of no substance.

The plaintiff emphasizes that the defendant in his Second Defense "denies making statements attributed to him [in paragraphs 6 & 7 of the Complaint] but admits in his Ninth Defense that "when he spoke concerning the plaintiff, he was acting within the scope of his employment."<sup>4/</sup>

<sup>1/</sup> The plaintiff does not assert, however, what would be a sufficient explanation.

<sup>2/</sup> Attached as an exhibit to the affidavit of Richard Helms, dated April 1, 1966.

<sup>3/</sup> The Agency's reluctance to identify an employee's covert activity is, of course, readily understandable.

<sup>4/</sup> The quotations are from the plaintiff's brief.



The inconsistency exists only because the plaintiff does not wish to live with the text of the Amended Answer.

The Second Defense admits that the defendant said "he was in possession of responsible information received by him from an official agency of the United States Government to the effect that the plaintiff was a Soviet agent or collaborator. . ." It further admits that defendant had spoken to Kuklane but on a different date than attributed to him in the Complaint.<sup>5/</sup> The following sentence, which contained in part the language which the plaintiff quotes, denying the making of the statements, clearly refers to the specific language which was used as charged in the Complaint, not to the substance of the charge.

The Complaint alleges (Par. 5) that Raus said "Eerik Heine is a Communist" and "Eerik Heine is a KGB Agent."

The minutes of the meeting at which Raus spoke<sup>6/</sup> differs slightly<sup>7/</sup> in text from either the version of the Complaint or of the Answer. But the differences are in semantics and of no materiality. The present matter assumes the truth of the plaintiff's allegations, as do the affidavits which attest Raus' authority to make the statements. The plaintiff's attempt to create a factual dispute of substance from the use of slightly different words is simply tedious.

So also is his attempt to show that Raus contradicts himself when he says he is employed by the Bureau of Public Roads and the C.I.A., and when he says that he was doing the work of the C.I.A. and also serving the Estonian liberation movement. It is now apparent that Raus worked for both agencies and that he was recruited by the C.I.A. because of his Estonian.

<sup>5/</sup> For the purpose of the present matter the defendant considers the precise date to be totally immaterial.

<sup>6/</sup> Submitted by the plaintiff as an exhibit to the affidavit of Alexander Allikas.

<sup>7/</sup> Raus admitted in his deposition testimony that he referred to Heine as a Soviet secret agent (Tr. 65, 4/28/66).

background and that he felt he served both parties by his activities. The reconciliation of this asserted contradiction is so transparent that the plaintiff no longer dwells upon it nor treats it as substantial.

Finally, there is no dispute whatever over the authority of the C.I.A. in the circumstances posed by this case. The plaintiff simply ignores the Houston affidavit and its attachments, as he has failed to respond to the defendant's "Memorandum Concerning the Authority of the Central Intelligence Agency," served May 27, 1966.

3. The Affidavits of Defendant Present Admissible Evidence

This Court has, during the course of the Raus deposition, recognized and upheld the well-founded claim of executive privilege to protect national intelligence information.<sup>8/</sup>

The recognition and enforcement of any testimonial privilege, to that extent, inhibits the scope of cross examination but that circumstance does not render other testimony inadmissible or unsubstantial. The plaintiff's position on this point is not well taken. Even his rights to discovery are limited to non-privileged matter. See Rule 26(b), F.R.C.P.

4. The Record Establishes the Status of the Defendant as a Government Employee

The Director of Central Intelligence, the Deputy, the Agency's General Counsel and the United States Attorney, each, either by formal claim, sworn statement or solemn assurance, has represented to the Court that Juri Raus, when he spoke of the plaintiff, was acting on behalf of the United States. Unless the Court would presume to doubt these representations, the employment of Raus must be taken as established. There is no word to the contrary, nor is there any basis for arguing that Raus was "a volunteer or independent contractor."

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<sup>8/</sup> 8 Wigmore, Evidence (McNaughton Rev. 1961) pp. 794-795.

A finding that Raus was not an employee would be arbitrary and capricious and this Court would be required to set it aside as not founded upon substantial evidence.

5. The Doctrine of Absolute Immunity Applies to the Defendant

The plaintiff's argument that Barr v. Matteo, supra, does not apply to the defendant because he is not shown to have been an employee with discretion to speak or not is without logic.

If the purpose of the doctrine of absolute immunity is to permit the government to function freely through officers who cannot be thwarted in the performance of their duties by a threat of lawsuits,<sup>9/</sup> it should make no difference whether the spoken words preceded from discretion or upon order. Moreover, common fairness would dictate that the employee who was ordered to speak should receive as much protection, if not more, as the one who had the choice to speak or not.

The general rule is contrary to plaintiff's contention: "A subordinate or ministerial official -- i.e., one who acts under the orders of a superior official -- is absolutely exempt from liability if the harm done by him is done solely in implicit obedience to an order lawful on its face." 8 Wigmore, Evidence (McNaughton Rev. 1961) §2368.

6. (a) The Authority of the C.I.A.

This matter has been adequately dealt with by the defendant's separate memorandum of May 27, 1966 on the subject.

(b) The Authority of the Defendant

Juri Raus' instructions are clearly established in the Helms' affidavits. Whether in speaking he attributed his information to the F.B.I. or the C.I.A. is immaterial. The plaintiff cannot be heard to say that the damage to his reputation would materially vary depending upon whether the

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<sup>9/</sup> See Gregorie v. Biddle, 177 F.2d 579, 581 (2d Cir. 1949).

F.B.I. or the C.I.A. called him a KGB agent. The defamation proceeds from the charge of being a KGB agent, not from the source of the accusation.

7. The Existence of a Federal Question as to Absolute Privilege

This point is no longer open to question. Howard v. Lyons, 360 U.S. 593 (1959). The question is no more premature here than it was in that case.

8. The Alleged Refusal to Permit Discovery

The defendant by reason of his employment is not a free agent in submitting to discovery. The plaintiff misdirects his wrath. The defendant has not refused to make discovery. The refusal to permit the defendant freely to testify was the decision of the Central Intelligence Agency.

Moreover, a justified claim of privilege is not a refusal to make discovery. Plaintiff, under Rule 26(b), F.R.C.P., as we have said earlier, is entitled to discovery only to the extent that he seeks non-privileged matter.

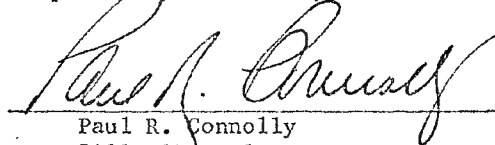
9. Estoppel

This purported argument is uncomprehensible. The Houston affidavit deals with the authority of the C.I.A. and was submitted in response to a request from the Court. It does not deal specifically with Raus' employment.

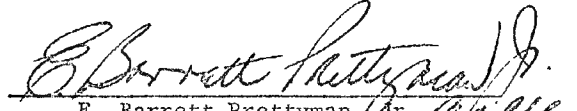
10. The Duty of Plaintiff's Counsel

This is a spurious argument designed to permit the plaintiff to maintain a public position on the question of Agency authority which is known to the Court to be invalid. If counsel are seriously concerned about the application of the Canons of Ethics to the problem of the Houston affidavit and its attachments, it is suggested that the Court advise counsel whether in this instance it is necessary that they discuss the attachments to the Houston affidavit with the plaintiff.

Respectfully submitted,



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5411 Albemarle Street  
Westmoreland Hills  
Washington, D. C. OL 2-5851



E. Barrett Prettyman, Jr.  
3708 Bradley Lane  
Chevy Chase 15, Maryland OL 6-7289

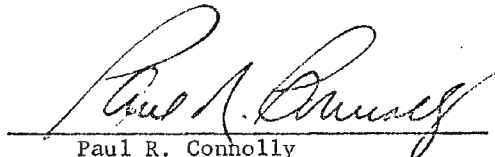
Attorneys for Defendant

OF COUNSEL:

Hogan & Hartson  
815 Connecticut Avenue  
Washington, D. C. 20006

CERTIFICATE OF SERVICE

A copy of the foregoing MEMORANDUM IN REPLY TO PLAINTIFF'S BRIEF  
IN OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT was mailed this  
29<sup>th</sup> day of July, 1966 to Ernest C. Raskauskas, Esquire, 910-17th Street,  
N.W., Washington, D. C., and Robert J. Stanford, Esquire, 1730 M Street, N.W.  
Washington, D. C., Attorneys for Plaintiff.



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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

EERIK HEINE, )  
 )  
Plaintiff, )  
 )  
v. ) Civil Action No. 15,952  
 )  
JURI RAUS, )  
 )  
Defendant. )

MEMORANDUM BRIEF OF PLAINTIFF  
IN OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

In compliance with the direction of the Court at the continued hearing on May 13, 1966, on the defendant's Motion for Summary Judgment, comes now the plaintiff, Eerik Heine, by his counsel, Ernest C. Raskauskas and Robert J. Stanford, and submits this outline of his principal points in opposition to the defendant's pending Motion for Summary Judgment.

I. Plaintiff Urges Pending Motion Respecting Amended Answer.

Plaintiff's Motion to Strike Motion to Amend Answer redesignated by the Court as a Motion to Strike Order Amending Answer is still pending and plaintiff urges the Court to rule on said Motion prior to its consideration of defendant's Motion for Summary Judgment, and in accordance with the Court's statement at the hearing of April 14, 1966.<sup>1/</sup>

In defendant's Motion to Amend Answer, he attempts to justify a delay of more than one year in pleading the affirmative and annihilating defense of absolute privilege on the "reasons clearly beyond the control of the defendant, as detailed in the testimony of E. Barrett Prettyman, Jr., Esquire,"<sup>2/</sup> when in fact said

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<sup>1/</sup> Transcript of Proceedings, April 14, 1966, p. 5.

<sup>2/</sup> Memorandum of Points and Authorities in Support of Motion to Amend Answer.

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witness was unable to state why the Central Intelligence Agency reversed its position and permitted the tardy assertion of the defense other than for reasons of expediency<sup>3/</sup> and further, said witness could neither explicitly state that because of the secrecy law was the defendant forbidden to assert the defense of absolute immunity,<sup>4/</sup> nor would the witness disclose who directed or forbid him to assert the defense of absolute privilege.<sup>5/</sup> The Court is furnished no information as to the capacity, authority, or rank of the person purportedly forbidding the defense of absolute privilege except that in a question propounded by Mr. Connolly to Mr. Prettyman an inference can be drawn that at least a discussion was had with an attorney concerning the question of raising the defense of absolute privilege.<sup>6/</sup> In contradistinction to the vague, ambiguous and pretended reasons for the allowance of an amended answer, plaintiff has asserted and meticulously detailed in his opposition to said Motion, specifically and conclusively the grounds for the denial of such a motion under existing Federal Case Law, of undue delay, bad faith, dilatory motive on the part of the movant, and undue prejudice to the plaintiff by virtue of the allowance of the amendment, which plaintiff hereby urges upon the Court without restatement, and states that defendant has asserted no impressive reasons upon the Court on which it may exercise its discretion, and plaintiff requests that the Court

---

3/ Transcript of Proceedings, p. 73, E. Barrett Prettyman, Jr., Esquire, "I do not know the policy reason or other reason that the Agency decided to change its stand."

4/ Transcript of Proceedings, p. 73, Testimony of E. Barrett Prettyman, Jr., Esquire, "Well, I presume so, yes. The law was pointed out."

5/ Transcript of Proceedings, Testimony of E. Barrett Prettyman, Jr., Esquire, pp. 70-71, "Frankly, Mr. Connolly, I would think not."

6/ Transcript of Proceedings, March 11, 1966, p. 69.

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make a ruling in its consideration of the testimony of E. Barrett Prettyman, Jr., as it suggested it would at the conclusion of the hearing of March 11, 1966.<sup>7/</sup>

II. There Exist Numerous Genuine Issues of Material Fact.

A. In his first opposition to the defendant's Motion for Summary Judgment, the plaintiff set forth in columnar fashion the numerous controversies, contradictions and conflicts as set forth in the complaint, the answer, and all of the affidavits filed herein on behalf of the plaintiff and the defendant in various stages of the litigation as well as those filed with the motion of the defendant and the opposition of the plaintiff.

These contradictions are still present and are so material that they alone prevent consideration of the issue of governmental immunity which constitutes the totality of the defendant's Motion for Summary Judgment. There is a mutual exclusion palpably evident in the juxtaposition of the material averments. Most pointed is the comparison of the Second and Ninth Defenses in the Amended Answer.

In the Second Defense, the last sentence of the final paragraph, section 1, the defendant denies making statements attributed to him as specified in those paragraphs (i.e., paragraphs 6 and 7).

In his Ninth Defense he states that on those occasions specified in paragraphs 5, 6, and 7, of the complaint, when he spoke concerning the plaintiff, he was acting within the scope of his employment. Thus to deny having made the allegations but to arrogate course-of-employment privilege is a metaphysical impossibility.

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<sup>7/</sup> Transcript of Proceedings, March 11, 1966, pp. 74-75.

B. Assuming as true all other averments of the defendant, there exists a factual issue with regard to the scope of the Agency's functions. The defendant contends that Title 50, § 403 (d) (3), permitted Raus' action under the power of the final clause "And provided further, That the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure."

However, the plaintiff contends that the same statute and paragraph § 403(d) (3) contains a stricture and specific prohibition against the Agency: "Provided, That the Agency shall have no police, subpoena, law-enforcement powers, or internal-security functions." The necessity for the resolution of this issue will defeat the Motion for Summary Judgment.

III. Affidavits And Testimony Do Not Present Admissible Evidence.

There is a gross insufficiency in the affidavits supporting the defendant's motion and in the testimony elicited in the deposition of Juri Raus. In Sprague v. Yoqt, (CCA 8th, 1945) 150 F.2d 795, 800, the Court said:

"When affidavits are offered in support of a motion for summary judgment, they must present admissible evidence."

The primary rule for admission of evidence in any Court in this land is the requirement that it be subject to cross-examination. However, all of the affidavits, reiterations and restatements, are replete with multiple assertions of full disclosure and a declaration of an inability to disclose more. This was sealed with finality by the claim of Governmental privilege entered by Admiral William Raborn, then Director of the Central Intelligence Agency. Under footnote 2 of the original memorandum in support of the defendant's motion, there was quoted from

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50 USCA § 403(g) that the Agency is exempted from the provisions of any law "which require the publication or the disclosure of the organization's function, aims, official titles, salaries or numbers of personnel employed by the agency."

In adherence to this policy, and in accordance with the oft-repeated and oft-modified position of the defendant, we must presume that full disclosure has been made. As held in Sexton v. American News Company, DCC, 1955, 133, F. Supp. 591 "where evidence is taken in support of motion for summary judgment, it is the duty of counsel for both parties to fully disclose all evidence bearing on the issues raised by the motion..." If the affidavits and Raus' deposition are the full and complete disclosure, it is readily apparent that the evidence which the defendant asks the Court to accept cannot stand.

If, in attempting to prove at trial that he was in fact an employee, Juri Raus, under direction, confines his statements to the fact that he received money directly or indirectly from the Central Intelligence Agency and refuses any other inquiry on cross-examination which would bring a clarification of a vague generality which sheds no light upon the issue of employment, that testimony would be summarily stricken. We must conclude that the refusal to submit to cross-examination on deposition exemplifies the course at trial. Since it is the intent of Rule 56 that the result of a Summary Judgment hearing be the same as would be achieved at trial, it follows that the defendant's motion must fail.

#### IV. Insufficiency of Facts Presented.

There exists a gross insufficiency in the affidavits of Richard Helms and the testimony of Juri Raus insofar as they purport to set forth incontrovertible facts showing that the

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defendant was an employee of the Central Intelligence Agency, that he had a scope of employment, and that in the course and scope of that employment he launched his slanderous attack upon the plaintiff.

Nothing sets forth with decisiveness and clarity the elements of fact upon which the Court can make a determination of the vital central issue upon which the motion depends. The record on the issue of employment is still such that reasonable men may widely differ since the evidence is conflicting, of uncertain weight, in part incompetent and susceptible of various interpretations. Therefore only by a trial can the Court ascertain truth of the pertinent facts and move to decide such questions of substantive law as those facts present. In such a situation the entry of summary judgment is not the proper method, American Security Company v. Hamilton Glass Company, 254 F.2d 889, 892.

The affidavits of Richard Helms contain declarations that no further information can be given concerning the employment of Juri Raus and were accompanied by memoranda of Counsel declaring that each affidavit was the final word possible on the subject under the demands of national security. However nothing in the affidavits or the interrogation of Juri Raus at the time of his deposition in open court is sufficient to show that the defendant was in fact an employee with the Central Intelligence Agency, that as a regular employee with known and prescribed duties he had a scope of employment. No evidence is presented to show that he was more than an independent contractor not dissimilar to the private detectives who undertook the assignment to travel throughout the United States and Canada in order to gather information about the plaintiff. The absolute privilege of Barr v. Matteo, 360 U.S. 564, 571, which sets forth the philosophy of Gregoire v. Biddle, 177 F.2d 579, 581 (2d Cir. 1949), applies only to actual government officers

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not to co-operators, volunteers, informers or other links with a particular community or culture who are used or "employed" (as defendant semantically urges) for a particular purpose but who possess no scope of duties which demands freedom of action, discretion or choice. If the defendant as a volunteer or an independent contractor agreed to utter slanderous comments about the plaintiff, to the use of the CIA, he did so at his own risk, but the privilege does not exist for someone who is doing his work outside of a scope or course of employment.

V. Absolute Immunity Does Not Attach To All Government Employees.

If it could be clearly shown that the defendant Raus was a subordinate employee and that his sole duty was the issuance of a totally untrue vilification (and it is staunchly averred by the plaintiff that such has not been shown by the defendant) he would still not enjoy the governmental immunity as contemplated by Barr v. Matteo and Howard v. Lyons. If a person is not exercising a discretion he has no freedom. If he has no freedom or scope of action, then there is no necessity for the immunity as contemplated by the Supreme Court decisions, or the decision of Learned Hand as set forth in Gregoire v. Biddle. Absolute immunity is not enjoyed by all government employees but only officers or officials with discretionary choice.

In quoting the Barr v. Matteo, 360 U.S. at 572, 573, the courts said:

"The privilege is not a badge or a monument of exalted office, but an expression of a policy designed to aid in the effective functioning of government \* \* \* it is not the title of his office but the duties with which the particular officer sought to be made to respond in damages is entrusted. The relation of the act complained of to "matters committed by law to his control or supervision," \* \* \* must provide the guide in delineating the scope of the rule which cloaks the official acts of the executive officers with immunity from civil defamation suits."

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This clearly shows that the doctrine of absolute privilege to speak or write in a defamatory manner of any person which was recognized to reside in federal officers of Cabinet rank was not by either the Barr or Howard cases extended to government employees of any rank or of any connection but to "officers of lower rank in the executive hierarchy." The defendant by his own claim, was a government employee of subordinate rank and not an officer in the executive hierarchy. The affidavits and the statements in deposition and the claims by Counsel all place defendant Raus outside the contemplation of the oft-quoted Supreme Court decisions which form the basis of the Motion for Summary Judgment.

VI. The Statements by Juri Raus Were Actions Beyond the Statutory Power of the Central Intelligence Agency and Beyond the Claimed Instructions to the Defendant.

Throughout the pleading, defendant has repeatedly quoted with self interest that the Director of Central Intelligence is directed to protect intelligence sources and methods. However, this is a conveniently truncated repeatedly by the provisions of the quoted statute 50 USCA § 403(d)(3) and 50 USCA § 403(g) state that the Director is directed to protect "intelligence sources and methods from unauthorized disclosure." The clear intent of the word "disclose" is to protect information for known sources of information within the knowledge of the Central Intelligence Agency from revelation to others outside of the Central Intelligence Agency as the intelligence gathering organization for the United States Government. A claim of protection of sources does not extend to a speculative area when the slanderous utterances are made to potential possessors of information and not intelligence sources who could be notified directly by their contact and no doubt have been in accordance with accepted intelligence procedures. To disclose the information received from behind the Iron Curtain to none other than Central Intelligence Agency or

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known and approved persons. The slanders of the defendant did not therefore attempt or accomplish the protection of foreign intelligence sources from disclosure, but served merely to poison the reputation of the plaintiff, a heretofore widely recognized anti-communist hero.

Further Central Intelligence Agency Regulation HR 10-20, effective 29 August 1952, submitted by the defendant states in paragraph .20 Protection and Disclosure of Information, in paragraph b, indicates that the information to be protected is that information within the Agency or other intelligence components.

Nothing in the supplementary memorandum on the authority of the Central Intelligence Agency gives any further authority than has been quoted to date. The defendant has the affirmative burden to establish statutory authority before he can claim official immunity and in Maryland this must be done by a preponderance of the evidence.

Therefore until the defendant makes such a showing, the defense of absolute privilege and summary judgment are not available to him.

There exists a factual issue concerning the statutory authority as detailed under Section II.

In the affidavit of August Kuklane heretofore filed by plaintiff, said deponent states that the defendant claimed the FBI as the source of his slanderous statements. Defendant, by inference from the testimony in his deposition of April 28, 1966, p. 66, admitted the attribution and further directly admitted that the FBI in fact did not furnish him any information that plaintiff was a KGB agent, p. 67. Accordingly, such a deliberate, malicious, admitted slanderous untruth cannot be statutorily justified as the protection as an intelligence source. The tortuous action of the defendant was not in protection of any "intelligence source

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from unauthorized disclosure" but rather was a direct, overt, wrongful act against an individual without reference or relation to any intelligence source in need of protection.

Furthermore, such remarks according to the affidavit of August Kuklane were in marked contrast to the instructions supposedly given to a subordinate employee who had, according to the defendant, no discretion.<sup>8/</sup>

VII. Premature Presumption of The Existence of A Federal Question.

It is premature to determine whether a privilege exists for statements communicated in the course of employment under State court rulings or whether this is a Federal question, until there is a showing of facts beyond dispute that the defendant was acting within the scope of his employment for the Central Intelligence Agency. This once again illustrates that the defendant is premature in his motion and presumptuous in his claim.

VIII. The Refusal To Permit Discovery By The Defendant Exempts The Plaintiff From Responding to Motion.

Rule 56(f) provides that when a party opposing the motion cannot for reasons stated present by affidavit facts essential to justify his opposition, the Court may refuse the application for judgment. This is most pointly true in the instance where the movement for summary judgment is in possession of the very facts necessary to permit the opponent to properly oppose the motion. Defendant Juri Raus is in possession of all of the facts relating to his connection, compensation, duties, assignment, scope of employment and responsibility. He refuses to disclose any of them in response to the interrogatories propounded to him in written

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<sup>8/</sup> The Supplemental Memorandum of the Defendant states "that Raus was employed on those occasions specified in paragraphs 5, 6 and 7 of the complaint to carry out a specific assignment." Further, "Raus was acting as a subordinate government employee in the discharge of orders."



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form or by examination by deposition held in open court.

The interposition of the governmental privilege not to disclose information of a security nature is an independent, non-partisan rule of law which favors neither side. Since secrecy prevents full disclosure and prevents subjection of defendant Raus to cross-examination, the said defendant cannot prove by a preponderance of the evidence that he is within the scope of employment of the Central Intelligence Agency. The failure to disclose therefore must inure to the detriment of the defendant and not to the plaintiff who seeks information from the defendant. As stated in Moore's Federal Practice, section 56.24 with regard to Rule 56(f), FRCP,

"If however, the Court is of the opinion that since the knowledge is in the possession or control of the moving party, who is, of course, an interested party, and that the opposing party may be able to establish his claim or defense if afforded the opportunity to cross-examine the moving party in Court, or for some other reason the case needs the full development of a trial, the Court may deny the motion for summary judgment."

IX. The Formal Claim of Privilege Lodged By The CIA Estops It And The Defendant From Any Subsequent Proffer Of Privileged Facts.

On April 28, 1966, the CIA, in writing, over the signature of its then Director, Admiral W. F. Raborn, filed a formal Claim of Privilege. This action was accepted by the Court to the extent that the plaintiff was precluded from even ascertaining the gross income of defendant as reported on defendant's federal income tax return for 1964, and whether he was contacted or he contacted the FBI concerning Erik Heine, Deposition of Juri Raus, p. 59, p. 75.

Therefore, the in camera affidavit of Lawrence R. Houston, and the annexed and admittedly secret papers, amount to a repudiation by the General Counsel of the Agency of previous Claim of Privilege by the Director of the Agency. This is a classic

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example of judicial estoppel, and under Maryland law, defendant is estopped to proffer inconsistently the evidentiary materials submitted by Mr. Houston in an attempt to shore up and salvage the arguments of defendant in his Memorandum Concerning the Authority of the Central Intelligence Agency. M.L.E. Estoppel § 43.

Accordingly, it is not necessary for counsel for plaintiff to review or study the affidavit and exhibit filed in support of defendant's Memorandum Concerning the Authority of the Central Intelligence Agency, since the same cannot be considered by the Court.

X. Plaintiff's Counsel Cannot Review the Secret Filings Proffered by Defendant Concomitant With the Discharge of Their Ethical Obligations To Their Client.

Assuming without admitting, that the secret papers filed by Mr. Houston were not susceptible of estoppel, nevertheless, plaintiff's counsel could not in good conscience and in accordance with the Canons of Professional Ethics of the American Bar Association review said secret papers. Section 15 of said Canons, among other matters, directs that "In the judicial forum the client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land, and he may expect his lawyer to assert every such remedy or defense." In a courtroom climate where the supposedly impartial representatives of the government, purportedly there only to protect state secrets, interpose objections as to materiality, Transcript of Proceedings, April 28, 1966, p. 68, second objection of Mr. Moroney, counsel will not and cannot circumscribe the prosecution of his prospective arguments and remedies on behalf of his client, under the Damoclean sword that some argument or some tactic is proscribed or prohibited because

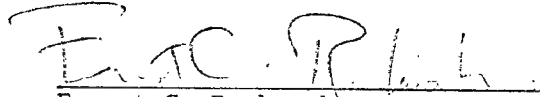
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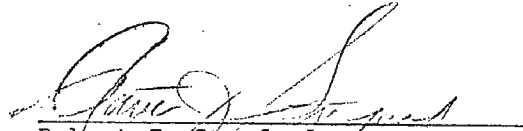
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it would disclose some "method or technique" of intelligence or perhaps reveal some secret in the "nether world" of international conspiracy, Defendant's Motion for Summary Judgment, p. 5.

In addition, the condition of secrecy imposed upon counsel, precluding consultation and conference with their client concerning said proffered materials, is patently divisive and violative of the undivided fidelity which must exist between counsel and client, and is contrary to the adverse and conflicting interest rule contained in Section Six of the Canons.

For the foregoing reasons, plaintiff respectfully moves the Court to deny defendant's Motion for Summary Judgment.

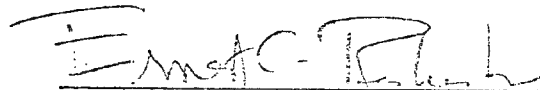
  
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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing MEMORANDUM BRIEF OF PLAINTIFF IN OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT was mailed, postage prepaid, to Paul R. Connolly, Esquire, and E. Barrett Prettyman, Jr., Esquire, Attorneys for Defendant, to their office address at 915 Connecticut Avenue, N.W., Washington, D.C., 20006, this 7th day of July, 1966.

  
Ernest C. Raskauskas

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Next 1 Page(s) In Document Exempt

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

-----X  
ERIK HEINE,

Plaintiff,

vs.

JURI RAUS,

Defendant.  
-----X

Civil Action No. 15952

Washington, D. C.

Saturday, February 27, 1965

Deposition of:

ERIK HEINE,

the plaintiff, called for examination by counsel for the defendant, pursuant to notice, a copy of which is attached to the court copy of this deposition, and agreement of counsel as to change in time, in the offices of Hogan & Hartson, Esquires, 800 Colorado Building, Northwest, Washington, D. C., 20005, beginning at one o'clock, p. m., before George M. Poe,

Stewart & Poe, Inc.

BOND BUILDING, 1404 NEW YORK AVENUE, N. W.  
WASHINGTON, D. C. 20005

Jr., a Notary Public in and for the District of Columbia, when  
were present on behalf of the respective parties:

For the Plaintiff:

ERNEST C. RASKAUSKAS, ESQUIRE  
and  
ROBERT J. STANFORD, ESQUIRE

For the Defendant:

HOGAN & HARTSON, ESQUIRES  
BY: PAUL R. CONNOLLY, ESQUIRE  
and  
E. BARRETT PRETTYMAN, JR., ESQUIRE

- 0 -

# I N D E X

EXAMINATION BY:

WITNESS

MR. CONNOLLY

MR. RASKAUSKAS

EERIK HEINE

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- - -

# E X H I B I T S

FOR IDENTIFICATION

Defendant's Exhibit Number 1		83
Do.	2	89
Do.	3	89
Do.	4	89
Do.	5	90
Do.	6	93

- - -

THEREUPON,

EERIK HEINE,

the plaintiff, was called for examination by counsel for the defendant, and after having been duly sworn by the Notary Public, was examined and testified as follows:

EXAMINATION BY COUNSEL FOR THE DEFENDANT  
BY MR. CONNOLLY:

Q Mr. Heine, what is your full name?

A Eerik, with two "E's."

Q What is your residence address?

A Canada; 121 Mount Olive Drive, Rexdale, Ontario.

Q Is Rexdale a suburb of Toronto?

A Yes.

Q What is your employment?

A I am in a factory; a factory foreman.

Q What is the name of the factory?

A Artistic Woodwork.

Q Where is it located?

A 23 Tinsley Avenue, Toronto.

Q And your job is precisely what?

A I have under me four men who are some kind of foremen. I am foreman there.

Q What sort of work do the men under you perform?



A Picture frames we are making.

Q How long have you been engaged in this work?

A I went to work there a year -- one and a half years ago.

Q In the last five years have you had any other residence other than the one that you heretofore have given us on Mount Olive Road?

A Yes. When I came to Canada as a visitor, in the beginning I lived with my mother, Maragarete Heine, 2980 Spark Road.

Q How long did you maintain that residence?

A About six months.

Q And did you take another residence before you assumed your present one?

A Oh, yes. I am married, and I went to live with my wife. I do not remember the address now, where we did live, at this time.

Q Let me come back to that in a moment.

You have had this present job for a year and a half?

A Yes.

Q When did you first come to Canada?

A '57.

Q So, what part of the year in '57?

A In April.

Q Almost eight years you have been in Canada?

A Yes.

Q Now, what job did you have immediately prior to the one that you now hold with the picture frame factory?

A I went to work in '57, in December for the Pieltie Manufacturing Company in Toronto.

Q Letter "T"?

A P-I-E-T-T-I-E (spelling).

Q Manufacturing Company?

A Yes.

Q And what did Pieltie Manufacturing Company make?

A We made out of masonite, it was bottoms for chairs, and so on.

Q By cutting masonite you made chair seats for bottoms of chairs?

A Yes; radio and TV backs.

Q What specifically was your job?

A Laborer.

Q You commenced that employment in December of 1957.

How long did you retain it?

A From then until May '63 when I quit the job.

Q Had you progressed at the job in the intervening roughly five and a half years, had you gone to foreman? Had you gotten above the status of laborer, or what was the progress that you made in your work?

A The last job, what I have now, I am a foreman there.

Q And from there you went to your present employment, did you?

A No. In my present job I am a foreman; earlier I was a laborer.

Q I understood you to say that when you finished in May of '63 at the Pieltie Manufacturing Company, you were a foreman?

A No; I was a laborer.

Q You stayed a laborer during the entire time you worked at Pieltie?

A Yes.

Q In May of '63 you quit Pieltie Manufacturing Company, did you?

A Yes.

Q Or were you laid off? Which was it?

A I quit.

Q Did you then take your present job?

A No.

Q What job did you take?

A I went on a lecture and movie tour here in the United States from May '63 until --

Q Until what time?

A Until September '63.

Q Following September '63, what employment did you have?

A Artistic Woodward.

Q Your present employment?

A Yes; my present employment.

Q What is your birthdate?

A 11th of September 1919.

Q Your place of birth?

A Tartu in Estonia.

Q Estonia?

A Estonia.

Q You have given me the name of your mother heretofore. What was the name of your father?

A Oscar Heine.

Q You are married?

A Yes, I am married.

Q Do you have any children that have been born of your

marriage?

A No.

Q What is your wife's maiden name?

A Elsa Varres.

Q Would you like to spell that?

A V-A-R-R-E-S (spelling).

Q Where and when did the marriage take place?

A The 28th of December 1957.

Q Where?

A In Toronto.

Q Had you previously been married?

A No.

Q What date was it that you arrived in Canada?

A It was '57, in April I believe.

Q What was your point of arrival?

A Halifax, Canada.

Q How did you arrive?

A By ship.

Q What ship?

A I don't remember that.

*The ship's name was "New York"*

Q You don't remember the ship?

A The name, no.

Q Do you remember whether it was British, Canadian

flagship?

A From Bremen, from Germany, by ship.

Q Bremen to Halifax?

A Yes.

Q Had it made any stops between Bremen and Halifax?

A Oh, yes; in England, I think.

Q Whereabouts?

A I don't remember.

Q You don't remember where it stopped?

A No.

Q Did anybody accompany you, any friend or acquaintance or relative?

A No; I was alone.

Q Did you have a visa?

A Yes; visitor's visa.

Q From whom did you procure that visa?

A The Canadian Consulate in Hamburg or Bremen; I don't exactly know; Hamburg or Bremen, but from the Canadian Consulate.

Q Did you have any passport?

A I am a Canadian citizen now.

Q At the time you came to Canada, did you have any passport?

A Yes, I had.

Q A passport of what nation?

A Germany.

Q West Germany?

A West Germany.

Q At the time you sought a visitor's visa to Canada, were you claiming at least West German citizenship?

A They gave me that citizenship after I was exchanged from Russia as a prisoner of war.

Q Where did you get your German passport?

A In Oldenburg, Germany.

Q Were you required there to make some establishment of your identify?

A Oh, yes.

Q And what was required of you?

A Birth certificate. And I had a document for when I was released from Russia.

Q I am sorry; I didn't understand the first part of it.

A I had a document with me, given to me when I was released from Russia as a prisoner of war.

Q You had a document or that document? Which did you say?

A A document.

Q What was that document?

A That consisted of my name, first name; birth date; birth place; and how long I have been in prison, labor camps; my woundings and my illnesses.

Q Is that it?

A Yes.

Q How did this establish your German citizenship?

MR. RASKAUSKAS: Object. Go ahead and answer it.

BY MR. CONNOLLY:

Q My point is at Oldenburg when you sought a German passport, I asked you if you had to establish your citizenship, and you said yes; and I asked you what did you have to do, and you said you had to show them a birth certificate, and then you said you had this document, which you got when you were released from Russia.

Now, I want to come back to that:

What else did you offer them in Oldenburg to establish your German citizenship?

A They needed documents, all by themselves, the German Government, all the records in the German Army and everywhere where I have been under German occupation.



Q You said they had that in Oldenburg?

A Yes.

Q You didn't have to provide that?

A No.

Q All you had to do was show them your birth certificate and this Russian document?

A Not Russian; that was a German document, what they gave me when I was in camp near the East Germany border where we were screened and then released.

Q It was written in Germany, but it was given to you by the East German authorities or Russian authorities?

A West German authorities.

Q Given to you --

A Yes.

Q -- while you were in East Germany?

A No. When I was in West Germany.

Q There came a time when you came into West Germany, I take it?

A Yes.

Q When was that?

A It was in November '56.

Q At what point did you enter West Germany?

A Berlin.

Q Berlin?

A Yes; through the Russian Consulate in East Berlin. The West German authorities came to East Germany, in East Berlin, and we were there about 20 prisoners of war and by a list the Russians gave us over to the West German authorities, and we went from East Berlin to West Berlin by bus, and --

Q Then were you taken to some place of security or confinement while the West German authorities interrogated you?

A Not confinement; rest house.

Q Where was that located?

A First we were about a couple of hours out of West Berlin, and then we were flown out by plane to Friedland, West Germany.

Q You were put through some sort of processing center, were you?

A Yes.

Q At Friedland?

A At Friedland, yes, sir.

Q And at this point you were provided with this document?

A Yes.

Q By the West German authorities?

A Yes.

Q And it was that document you used at Oldenburg to obtain a passport?

A One of them, yes.

Q The other was your birth certificate?

A Yes.

Q Did you have a birth certificate with you?

A No. My mother had it with her in Canada.

Q She had sent you a copy?

A She sent it to me.

Q Well, the birth certificate showed you were born in Estonia?

A Yes.

Q Were you born of German parentage?

A No.

Q Estonian parentage?

A Estonian.

Q Were any of your grandparents German?

A One of my grandparents was a German.

Q Which one?

A Grandmother.

Q On which side?

A Mother's side.

Q Father's side?

A Mother's side.

Q What was her name?

A Her married name was Kussik.

Q What was her maiden name?

A I don't remember that.

Q Do you remember where she came from in Germany?

A She was -- her ancestors lived already several generations in Estonia.

Q But you don't know what her family name was?

A No. I was not interested in that.

Q Now, perhaps you can enlighten me.

Was this sufficient, namely, that you had one grandparent who several generations back had been born in Germany, was this sufficient to establish German citizenship?

MR. RASKAUSKAS: Object. You may answer it.

THE WITNESS: Can I answer it?

MR. RASKAUSKAS: Yes.

THE WITNESS: It began in 1940. I was a young schoolboy at this time when the Russians forcefully occupied Estonia, and in 1940 I formed an underground movement amongst the schoolboys and was involved in other anti-Soviet activities. I was arrested for anti-Soviet activities by the Russians, and

to save me from the prison and possible death sentence, my parents decided to settle in Germany because at this time there was an agreement between Russia and Nazi Germany that people who have German blood in them may apply for immigration to Germany. And only because my life was in very grave danger in Russian prison, my parents decided to try that as the only possible way to save my life, and they immigrated to Germany. about two months before I was exchanged as a political prisoner from Estonia from the Russian prison to Germany. That was in 1941, in March, that I was exchanged as a political prisoner.

BY MR. CONNOLLY:

Q So you established your German citizenship back in March of 1941, didn't you?

A I was not given a German citizenship this time because when I was released there in Nazi Germany, the Nazi authorities said that I have too little German blood in my veins and I am not fit to have German citizenship, so we got -- how it's called -- foreigner's pass, non-citizenship pass. How it's called in translation, in German it's freiden pass, this type.

Q This is some sort of document that permitted you, a foreigner, to remain in Germany?

A Yes.

Q Well, did there come a time when you did obtain German citizenship?

A Real German citizenship I obtained in 1957, prior to moving to Canada.

Q How did you go about obtaining it?

A I went to the German Ministry, I think it was the Ministry of the Interior, and applied for German citizenship, for a German passport.

Q That's in Oldenburg?

A Yes; in Oldenburg.

Q That is my point:

When you went there to Oldenburg to apply for a German passport, didn't they want to know or didn't they inquire as to whether you were a German citizen?

A I said, "I have a document in my possession where when I came over, when I was brought over as a prisoner of war." I stated flatly that, "I am not a German citizen, but I have bluffed the Russians to believe that I am a German citizen," because in this way I was able to get over to the West. That's a long story.

Q We will get to that later, but all I am trying to find out now is, how you got or established German citizenship?

A I applied for German citizenship.

Q By asking for a passport?

A Yes.

Q And all you had to supply the German authorities in order to get a German passport was this document that was given to you in a processing center --

A Yes.

Q -- and a birth certificate showing your birth in Estonia?

A Yes.

Q When you got to Canada on a visitor's visa, did you apply for Canadian citizenship?

A No. I was first in as a visitor, and then I had to apply for the status of landed immigrant, and that I got two years later.

Q 1959?

A I believe so, yes.

Q Where?

A In Toronto; and then I had to wait four to five years to have the right to apply for Canadian citizenship.

Q When did you obtain Canadian citizenship?

A Last year, in August.

Q August of 1964?

A Yes.

Q Where?

A In Toronto?

Q Was there any ceremony that you went through?

A Yes; swearing in.

Q Where was that held?

A In Toronto, too.

Q But where?

A Lord Street; I don't know.

Q Was it some sort of governmental office or court?

A Yes.

Q What is the governmental office?

A Ministry of Citizenship, I think.

Q Were you taken before a court and sworn in?

A Yes.

Q Do you know which court it was?

A It was a special court for swearing in.

Q You don't remember the name of it?

A No.

Q How long did your visitor's visa last?

A I believe it was half a year.

Q And it was renewed?

A Yes.

Q Where did you have it renewed?



A I think six months later then.

Q But where?

A In Toronto, too.

Q And you kept having it renewed until 1959 when you changed your status?

A Yes. I would have got it earlier but I had lung defects, spots on my X-ray picture, and it was delayed until they were sure that it isn't nothing serious.

Q Contagious?

A Yes.

Q How was your status changed in 1959, from a visitor to what?

A To landed immigrant.

Q And that required a different type of visa, I take it?

A That only.

Q Required a permit?

A A little piece of paper, immigrant for an indefinite time, allowing me to stay in Canada.

Q Had your mother and father in the meantime come to Canada?

A Yes. They came to Canada, I believe, in 1952.

Q From where?

A From England.

Q How had they gotten from Germany to England?

A When the Russians occupied Estonia for the second time, they fled again to Germany, and from Germany to England, and from England to Canada.

Q When did they go from Germany to England?

A I believe it was 1949 or '50.

Q Is your father still living?

A No.

Q When did he die?

A He died exactly five months before I got out from Russia.

Q And so your mother was living in Canada from 1952, and you joined her there; is that right?

A Yes.

Q She was in Toronto?

A Yes.

Q Do you have any brothers or sisters?

A I had a brother in my young years, but he died when he was six years old.

Q Did your mother have any sisters?

A Yes, she had.

Q Were any of them living with her in Canada?

A No.

Q Any brothers?

A No.

Q Did she have any relatives in Canada?

A No.

Q Did you have or do you have any relatives in Canada other than your mother?

A Oh, yes. I have an uncle and an aunt from my father's side.

Q What are their names and where do they live?

A They live in Port Arthur. My aunt's name is Ella Peremees; and my uncle's name is Alexander Heine.

Q And does he live in Port Arthur also?

A Yes.

Q Do you have the address of either of them in Port Arthur?

A Yes, I have.

Q What is it?

A My aunt's address -- the postal address -- is simple: Murillo; Miss Ella Peremees, Murillo, Ontario. They get it in the post that way.

Q Is there a street number or a street name?

A No. They live near Port Arthur on a farm.

Q What is the uncle's address?

A That's another; he lives on the other side of the town, Port Arthur, and I don't recollect that address. I have it some place, but I don't recollect it very easy.

Q At any time since you landed in Canada, have you sought to come to the United States?

A I was invited several times to the United States.

Q Now, have you sought to come on any basis other than as a visitor?

A What do you mean?

Q Have you sought to immigrate to the United States?

A No.

Q You have come as a visitor, have you not?

A As a visitor every time.

Q When was the first time you came?

A As I rightly recollect it was after I obtained my status of landed immigrant. I came to a lecture tour to New York, I think.

Q New York City?

A Yes.

Q This would be sometime in 1959?

A Yes; it would be this time about.

Q How did you get to New York; drive, take a train or

fly?

A No; by plane.

Q And you had to go through immigration, did you,  
in New York?

A Yes.

Q What sort of documentation did you require?

A I had my landed immigrant, that slip, my German  
passport, and they checked that, and I went through.

Q How long did you say?

A Every time about a couple of days only.

Q This particular time, the time you came in 1959?

A Two days, I think.

Q Do you remember what part of the year it was in  
'59?

A I don't anymore.

Q You don't remember whether it was warm or nice, or  
whether it was cold?

A I don't recollect this.

Q Would it help you if you recall when it was in  
1959 that you got your landed immigrant status?

A It was in the autumn; somewhere in October or  
November.

Q So if you came in 1959 --

A I think it was wintertime, yes.

Q And you came for a lecture or to give a lecture?

A To give a lecture, yes.

Q Where?

A I think it was -- where was it? I don't remember that, but we can establish that easily.

Q How?

A By asking the New York Estonians, they should remember.

Q What New York Estonians?

A The New York Estonian-- how is that in English -- Estonian gatherings or clubs.

Q Who invited you?

A I believe it was the Estonian Veterans' Association.

Q You must have<sup>had</sup>/some correspondence with somebody, didn't you?

A That was several years ago; I don't recollect that, who it was.

Q Do you remember anybody who heard your lecture that you presently know their identity?

A Oh, yes, I can. I believe Mr. Keerg.

Q What is his full name?

A E-L-M-A-R (spelling).

Q Where does he live?

A In New York City. Long Island City; excuse me.

Q That is a pretty big place. Can you give me any better place than that?

A Can I look in my notebook?

Q Certainly, anything you need to refresh your recollection.

A Here it is: 30-70 - 34th Street, Long Island City.

Q And he was at this lecture that you gave in New York in 1959?

A I believe that, yes.

Q Anyone else?

A There were very many people.

Q Anyone that you know, I mean?

A By names, I don't believe that I know everybody there.

Q I am not asking you whether you know everybody; I am asking you if you know the names of anybody else who you recall being at that lecture?

A I don't recall that.

Q Only Elmar Keerg?

A Yes.

Q What was the subject of the lecture?

A My experiences in Soviet Russia as a prisoner and my experience in Estonia as a guerrilla fighter.

Q Were you paid for this lecture?

A Only roundtrip.

Q Only your expenses?

A Yes.

Q Where did you stay in New York?

A This time I believe it was by Mr. and Mrs.

Juhkam.

Q What are their first names?

A The first name of Mrs. Juhkam was Roori.

Q And Mr. Juhkam, what was his first name?

A I don't know that. I don't recollect it.

Q Did you know them before you got to New York?

A No.

Q How was it that you happened to be put up with them?

A That was arranged by these groups, I think.

Q By the groups you think; you don't know?

A I don't remember who and how.

Q Had you ever been to New York before?



A No.

Q This was your first time?

A Yes.

Q In what part of the city did they live?

A Who, please?

Q These people with whom you stayed?

A I have their address here some place.

I am sorry; I don't have the address here now.

Q Do you have some source from which you can get it?

A Oh, yes, I have it.

Q Where, at home?

THE WITNESS: Can I answer it (indicating Mr. Raskauskas)?

MR. RASKAUSKAS: Yes, answer it.

THE WITNESS: At home, yes.

MR. CONNOLLY: When this deposition is over, you will have to read it and make any corrections in it, so I will ask you at that time to insert the address at this point.

THE WITNESS: Yes.

BY MR. CONNOLLY:

*578 Wittich Terrace  
River Vale, New Jersey*

Q When was the next time you came to the United States?

A There were several times, but specifically I don't

remember the exact dates and it was about, I think, three or four times I came to New York to lecture. Once was in Lakewood near New York, and Mr. <sup>Tori Raus</sup> ~~Yaviroski~~ gave me the invitation to come and lecture there.

Q Where?

A In the Estonian Clubhouse in Lakewood.

Q When was that?

A I don't recollect that.

Q You don't remember the year?

A No.

Q You say you don't remember the year?

A No.

Q Any other recollection you may have of visits to the United States?

A A long trip, about three months, all over America, beginning in 1963 in May, until 1963 -- July, I think.

Q You previously said September. Were you in error?

A Pardon?

Q You previously said September. Were you in error when you said that?

A In September when?

Q '63?

A '63?

Q Yes.

A That was when I finished my trip. I went all over the United States over to Seattle, to Canada, and from the West Coast to Canada, back to Toronto.

Q How long did the trip last, from May until September?

A Yes.

Q What reference did you make to July a few minutes ago?

A I went out of the United States to Canada again by Seattle.

Q Is this the first time that you have been back in the United States since September of 1963, today or last night?

A No. I was sometimes more after I made that movie-showing trip.

Q After September of '63, when was the next time you came to the United States?

A After these slanderous remarks begun, I sought legal advice here, and went to Mr. <sup>Kuklane</sup> ~~Kuehlender~~ in Baltimore, and we discussed these slanderous remarks Mr. Raus made against me, and we sought a lawyer who would protect me against these things.

The first couple of times we didn't find a suitable lawyer. The last time -- I don't exactly recollect when it was when Mr. Raskauskas agreed to defend me.

Q All right. Now, after September '63, when was the first time you came to the United States?

A After September I went again, the first time as I recollect it was, I believe, in January '64 to Buffalo with my movie.

Q January of '64?

A Yes.

Q Then you immediately returned to Canada, I take it?

A Yes; after a couple of hours I went again to Canada.

Q What was the next occasion?

A It was '54; September, I think.

Q September of '64?

A Yes.

Q And you came where?

A To New York.

Q And for what purpose?

A To find what I could do against this slanderous campaign of Mr. Raus against myself.

Q And who did you see in New York?

A I was by Mr. Keerg.

Q Anyone else?

A It was overnight that I was there.

Q At his home?

A Yes.

Q Did you see anyone else in New York?

A Mr. Allakas visited us there.

Q What is his first name?

A Alexander.

Q Where does he live?

A In Long Island City, too.

Q Do you have his address in your book?

A I am looking. Just a moment, please.

No, I am sorry, I haven't that here.

Q I take it you have it at home?

A Yes.

Q Would you supply the address at some future point?

A Yes.

*Mr. A. Allikas  
33-15 28th Street  
Long Island City 6*

Q Did you see anyone else in New York?

A I went to the Estonian House there; there were many people.

Q Any people that you recall meeting and talking with?

A I recollect with great difficulty the names of people, but the faces, very many of them are familiar; they are friends.

Q You were treated cordially there, were you?

A Oh, yes.

Q And after your New York City visit, did you return to Canada?

A Yes.

Q Did you come again to the United States?

A Yes, I came again to the United States.

May I ask Mr. Raskauskas a question?

Q Certainly.

THE WITNESS: Do you recollect when the first time was that I saw you?

MR. RASKAUSKAS: No. I don't have that. I suggest you give the answers as best you remember personally, Mr. Heine.

THE WITNESS: Yes.

The best I remember it was '64 in November.

BY MR. CONNOLLY:

Q Where did you come?

A From New York.

Q To where?

A To Baltimore.

Q Whom did you see in New York on this occasion?

A I was overnight by Mr. <sup>Tusk</sup>Tusk; Heino is the first name. The family name is <sup>Tusk</sup>Tusk.

Q Where does he live?

A If you excuse me, please.

Route Ten, Pasadena, Maryland, Box 18-T.

Q Thank you. I thought you were going to tell me who it was that you saw in New York.

A I came over to New York and to Washington, and here Mr. Tusk drove me to his home.

Q When you came into this country, did you come to New York?

A Yes.

Q Did you see anyone in New York?

A No. I waited there a couple of hours, and then went --

Q Took a plane then to Washington?

A Yes.

Q And you were met by Mr. Tusk here?

A Yes.

Q Who drove you to his house in Pasadena in Maryland?

A Yes.

Q Did you meet Mr. Raskauskas on that occasion?

A Yes.

Q Did you see anyone else?

A There was Mr. Kuklane.

Q What is his first name?

A I don't recollect that; August.

Q Could you give us his address?

A 4714 St. Thomas Street, Baltimore.

Q Had you ever met Mr. Kukane before?

A Yes; when I was on my tour with my movie and my lecture tour.

Q You lectured in Baltimore at that time?

A Yes.

Q And you had met him on that occasion?

A Yes.

Q Had you ever met Mr. Tusk before?

A There must be one case more when I came to Baltimore to seek legal advice, and then I met Mr. Tusk. I came for that purpose. That was a couple of months before we started already, when I came, the first case.

MR. CONNOLLY: Have you made notes, Mr. Prettyman?

BY MR. CONNOLLY:

Q November 6th was the time you came to Baltimore, and I have you coming in January of '64, and I don't have you in



between.

MR. PRETTYMAN: September of '64 to New York.

BY MR. CONNOLLY:

Q Was it between September and November?

A Yes. It must have been at this time.

Q You went to Boston, you say?

A To Boston?

Q I thought you said you went to Boston?

A No.

Q Between the time you came to New York in September of '64 and the time you came to Washington and Baltimore in November, you had made another trip to the United States, at which time you had met Mr. Tusk?

A Yes; here in Baltimore.

Q In Baltimore?

A Yes.

Q Do you remember what month that was?

A It must have been in October or November.

I came by bus from New York.

Q So you had stopped in New York on that occasion?

A I flew to New York, and came by bus to Baltimore then.

Q Who had you seen in New York before coming to

Baltimore?

A I saw Mr. Allakas and Mr. Keerg at this time.

Q Did they recommend you to Mr. Tusk or introduce you to Mr. Tusk?

A They came with me with the purpose to meet Mr. Kuklane this time.

Q They came down with you?

A Yes.

Q When was it that you first began searching for a U. S. Lawyer to represent you?

A After these slanderous remarks went out of hand.

Q When was that, in point of time?

A It was about 1963 in June or July. I thought it would be good to seek legal advice against these slanderous remarks.

Q How did you hear that any remarks were being passed about you? Who told you?

A When I made my tour over the United States, people who visited the movie or heard my lecture told me afterwards that there are rumors and accusations that I am a Communist agent and Soviet spy.

Q Where was it that you first heard that you were being accused of being a Communist spy?

A It must have been in Detroit when one of my friends sent a letter and told me that there are some rumors that I am a Soviet spy and Communist agent.

Q He sent you a letter?

A Yes.

Q Do you have a copy of that letter? Do you still have it?

A I believe I have it.

Q Who was the author of it?

A Mr. Olaf Tammack.

Q Do you have his address?

A Pardon?

Q Do you have his address?

A Yes. Just a moment, please.

Route Two, Lake Geneva, Wisconsin.

Q And he told you in this letter, in substance, that he had heard rumors that you were a Soviet agent and Communist spy?

A I am sorry; I didn't let you finish your sentence?

Q Oh, I see.

Is it accurate that the substance of what he said in his letter to you was that he had heard rumors that you were a Soviet agent and a Communist spy?

A Yes.

Q Did he tell you in this letter where he had heard these rumors, under what circumstances he had heard them?

A Yes. He told me in this letter that the United States Government agents, probably FBI agents, had visited one of their people out in Geneva City and asked questions about me in this sense, and he wrote me, "What is going on?"

Q He didn't attribute it to Juri Raus, did he?

A Not at this time.

Q He told you that in the city in which he lived or the town in which he had lived, an FBI agent had come about asking questions concerning you?

A Yes.

Q And the agent had given the impression in the city that you were a Soviet agent?

A Yes.

Q Now, did you reply to this letter?

A No. I went on with my trip.

Q Did you hear the rumor or report again that a charge was being made against you?

A As time went by the more I heard these rumors.

Q Were they just occasional or were they almost a daily occurrence?

A A daily occurrence.

Q Every city you visited?

A Yes.

Q What did you hear?

A That the rumors that Mr. Juri Raus' allegations are that I am a very suspicious person, and then who wants to listen to my lectures and visit my movie; they have to do that on their own risk, and so on.

Q Would you listen as the Reporter reads that back to you? I think for your own benefit and mine as well, I would like you to understand fully what you have just said.

A Yes.

Q (Whereupon, the pending response was read by the Reporter).

BY MR. CONNOLLY:

Q You are now going to give me the substance of the rumors which you heard as you continued on your trip? Is that what you understood the question to be?

A Yes.

Q The first time you heard a charge against you, you indicated a few moments ago that it was not Juri Raus who was said to be the author of it, and when was it that you first heard that Juri Raus was the author of a rumor against you?

A It was in an unofficial meeting in New York when he made an official statement before 35 people.

MR. STANFORD: I don't want to interject. I didn't understand whether or not you are asking what is the first time that he heard or what was the date of when Juri Raus first made this accusation.

MR. CONNOLLY: I am going to try to get to that.

BY MR. CONNOLLY:

Q After you received this letter from Lake Geneva, Wisconsin, you said that you went on about your lecture tour?

A Yes.

Q And as your lecture tour proceeded, you heard repeated on almost a daily basis this rumor about your being a Communist spy?

A Yes.

Q And then I understood you to say that people were attributing this rumor to Juri Raus?

A Yes.

Q When was the first time that you heard this rumor attributed to Juri Raus?

A It was -- I believe it was in Los Angeles.

Q Did somebody else tell you it was Juri Raus who was circulating these rumors?

A Yes, I believe that. When I can recollect it was the chairman of the Los Angeles Association of Estonian Veterans.

Q What is his name?

A Just a minute. Excuse me.

Q When you get it, you might provide the address also.

A I am sorry, I have not got the address with me at the moment.

Q Do you have it at home?

A Yes.

Q Would you provide the name and address at this point?

A Yes. *John Aab  
1128 1/2 Elden Ave.  
Los Angeles, Cal.*

Q Is it accurate to say that from the time you left Detroit till you got to Los Angeles you had not heard the rumor repeated?

A Yes.

Q I take it you made many stops between Detroit and Los Angeles?

A No; only Chicago and Minneapolis after that.

Q In both cities did you hear the rumor?

A I began to hear some rumors about that I am a

suspicious person.

Q But in neither city was the rumor attributed by anyone to you as coming from Juri Raus?

A Not this time.

Q How did it come up in Los Angeles?

A Pardon?

Q How did the matter come up in Los Angeles?

A As I recollect Mr. Arthur -- how is his name? -- had received a letter of that kind or something. I don't remember now.

Q Did he show you a copy of any document?

A He told me.

Q What did he tell you as best you can recall?

A That Juri Raus has told him that I am a suspicious person and a Communist agent.

Q Where did you go from Los Angeles?

A To San Francisco.

Q Did you hear the rumor in San Francisco?

A Yes.

Q Was it attributed to Juri Raus there?

A Yes.

Q Where from San Francisco did you go?

A To Montana, I believe, and then to Seattle.



Q Who told you about the rumor in San Francisco?

A That was the chairman of that group. No, it was my old school friend -- how is it said?-- fellow from school years. A good friend of mine, Mr. Veske.

Q How does he spell his name, and give his full name, please?

A V-E-S-K-E (spelling).

Q What is his first name?

A Alexander.

Q Where does he live?

A In San Francisco; 535 Arkansas Street, San Francisco, California.

Q He told you in San Francisco?

A Yes.

Q Did you spend any time with him there?

A I was there about three days.

Q At his home?

A Yes.

Q And you said he had been an old school chum of yours?

A Yes.

Q From where?

A From Estonia.

Q You were boys together?

A Yes.

Q In what town?

A In Tartu.

Q What was the name of the school?

A College of Tartu.

Q This was not a primary or elementary school?

A High school.

Q Does he still live in San Francisco?

A Yes.

Q What did he tell you?

A He told me that the San Francisco Estonians were interrogated by some Government agencies about me, and that definitely these rumors or these things came from Juri Raus.

Q What things?

A These suspicions and these allegations.

Q Did he tell you what Juri Raus had said about you?

A Communist agent and then Soviet spy.

Q I take it your school friend didn't believe this about you?

A No.

Q Do you know of anyone who believed it about you?

A Oh, yes. I think I know lots of people. That's a pity.

Q It is?

A Yes.

Q Can you name some who believe it of you?

A There is Mr. -- I think I have that name here -- Mr. Kari.

Q What is his first name?

A I don't know.

Q Where does he live?

A Here in Washington, I believe.

Q Anyone else that you know of?

A There are several, but I don't recollect the names.

Q Would you have any way of refreshing your recollection?

A Oh, yes, I have.

Q And how would that be?

A I have to ask my friends who knew more Estonian people in the United States than I and who can tell who believes and who does not believe.

Q Would you provide a list of those names?

MR. RASKAUSKAS: I object to that.

MR. CONNOLLY: Is it your position that you will not furnish us with a list of the names?

MR. RASKAUSKAS: Not through a deposition. I don't think it's appropriate, Mr. Connolly.

MR. CONNOLLY: Why?

MR. RASKAUSKAS: Because the purpose of this deposition is to interrogate this witness as to his present knowledge.

MR. CONNOLLY: Would you prefer an interrogatory which says, "List the names of those people who believe the charges against you"?

MR. RASKAUSKAS: I would prefer an interrogatory or an informal request for him to furnish the names and addresses of the people that he knows.

MR. CONNOLLY: It's going to be under discovery rules either by interrogatory or this way. I don't think it makes any difference.

MR. RASKAUSKAS: I don't think that my client or I can undertake a national investigation.

MR. CONNOLLY: I don't want a national investigation; I want the names of some people that he knows that believe this of him.

He has made a charge that his reputation has been

damaged. Now, presumably he knows that some people think poorly of him on account of this charge, and I don't think he ought to give me everybody in the country that believes it, but I think he ought to give me a list of some people that he thinks have formed an adverse opinion about him on account of these charges.

MR. RASKAUSKAS: I will reaffirm my objection. I don't think it's appropriate for him to make a commitment at a deposition to submit a list of people who believe these charges against him.

MR. CONNOLLY: It wouldn't do me any good to have a list that didn't believe them.

MR. RASKAUSKAS: I think the only way you can ascertain this fact from an evidentiary point of view is to subpoena these people and examine them under oath.

MR. CONNOLLY: How can I subpoena anybody if I don't know who they are?

MR. RASKAUSKAS: I don't think --

MR. CONNOLLY: I am not asking you for a complete list; I am asking you for a representative list of some of the people that he thinks believe these charges against him.

MR. RASKAUSKAS: I don't think my client can inquire into anyone's conscience and find out what they do

believe. He might be able to recall some names at the present time who he has heard, and I have no objection to your inquiring of him as to all the names he knows of now that he has heard.

MR. CONNOLLY: That's what the question started out to be.

Where are we now? Do you want to add anything?

MR. RASKAUSKAS: I think your question is pending.

Can he recall the names of any people?

(Whereupon, counsel for the plaintiff had a brief conference between themselves).

MR. CONNOLLY: Are you finished now with your conference?

MR. RASKAUSKAS: Yes.

BY MR. CONNOLLY:

Q Would you tell us the names of the persons that you have heard of or that you believe have formed an adverse or a hostile opinion of you on account of these rumors circulated by Mr. Juri Raus?

A One name; there is a Mr. Kork.

Q What is his first name?

A I don't recollect that.

Q Where does he live?

A In Washington, D. C.

Q So we have two people, both in Washington. Anyone else?

A I don't recollect the names, no. There are many.

Q How could you find out the names? You say you don't recall the names now?

A There are many.

Q How do you know there are many?

A Because at the time when I was told that these people have said that I am a Soviet spy, I was told the names, but I don't now recollect.

Q Who told you the names?

A Here in Washington, I think it was Mr. Tusk and Mr. Kuklane.

Q Mr. Tusk doesn't believe these rumors of you, does he?

A No.

Q Does Mr. Kuklane?

A No.

Q But they told you the names of the people who do?

A Yes.

Q Anyone else?

A I can't recollect.

Q Anyone in New York that believes these rumors of you?

A There are for sure.

Q Do you know their names?

A Not momentarily.

Q Does Mr. Keerg believe it of you?

A No. He believes in me, yes.

MR. STANFORD: I don't think that was clear.

MR. CONNOLLY: It wasn't clear to me either.

BY MR. CONNOLLY:

Q Does Mr. Keerg believe the rumor that you are a Soviet agent?

A No.

Q Does Mr. Karner believe that you are a Soviet agent?

A Pardon, who?

Q Isn't there a Mr. Karner in New York? Didn't you mention that name?

A No, I haven't mentioned that name.

Q Mr. Allakas?

A Yes.

Q Does he believe it?

A No.



Q Did you ask either Mr. Tusk or Mr. Kuklane for the names or did they volunteer the names?

A They volunteered them.

Q Has Mr. Keerg given you any names?

A Yes.

Q Did you make notes of these names?

A No, I didn't make notes.

Q Did you ask him for the names or did he volunteer them?

A He volunteered.

Q Now, when you came to the United States on this lecture tour, did you have to get any specific type of visa?

A No.

Q Who paid your expenses?

A Myself.

Q And how did you travel from city to city and place to place?

A By car.

Q By automobile?

A Yes.

Q Did you charge admission to your lecture and to your film?

A For my film, yes.

Q What was your charge?

A The local authorities of the Estonian, these clubs made the decision themselves, how much they will charge.

Q Did it vary from city to city?

A Yes.

Q Through what range? What was the low price, and what was the high price?

A The low price was seventy-five cents, and the high price two dollars or \$2.50.

Q How many people do you estimate saw this movie while you were in this country?

A In the United States?

Q Yes.

A I can only give you approximately.

Q That's good enough.

A The exact figures I have at home.

Q What are the approximate figures?

A A couple of thousand.

Q Did you make money on the tour?

A No.

Q Did each group keep the proceeds of what they took in for the movie, or did they remit it all to you, or did you split whatever was taken in?

A From that money, for rent of facilities, for rooms or these halls, and for janitors, they took from that amount and what came in for selling leaflets that went directly to the Estonian Wounded Veterans in Germany; and what was over, what was left, they gave it to me.

Q How much did you take in on that six-months' tour?

A About -- you want to know in Canada, too, or only in the United States?

Q If you can break it up, do so?

A Approximately all together, about \$7,000, but when we split, from here in the States about \$2,500 or \$3,000.

Q Did you pay any Federal amusement tax?

A No.

Q Did you pay any United States Federal income tax?

A No.

Q What movie were you showing?

A That was a movie called "Creators of Legend," that dealt with fights against Communists, and these were the experiences of myself and my group and other members of my guerrilla group there in Estonia.

Q Where did you get the movie?

A I made it myself.

Q You made it just for yourself?

A Yes. I financed it.

Q Did you act all the parts?

A No; there were actors.

Q Professional actors?

A No; amateur actors, Estonians.

Q Did you play in the film itself?

A Only as a dead Russian.

Q Did you write the script?

A Yes.

Q And did you direct the film?

A Yes.

Q Did you do the photography?

A No.

Q Who did the photography?

A Mr. Magi, halfway.

Q What do you mean "halfway"?

A He left before the movie was completed.

Q Why?

A He immigrated to the United States.

Q Anyone else?

Let me have Magi's full name?

A Evald Magi.

Q Where does he live?

A He lives in Connecticut some place.

Q Do you have his address?

A No.

Q Are the people that made the movie friends of yours?

A No, not particularly.

Q Where was it filmed?

A Mostly in Toronto and in the vicinity.

Q Were there any outdoor shots included?

A Yes, mostly.

Q Where were they filmed?

A About 70 or 100 miles from Toronto, farms belonging to Estonians.

Q Where was the indoor part of it shot?

A By Mr. Magi.

Q Where?

A In a basement in Toronto.

Q In the what?

A In Toronto in a basement.

Q Whose basement?

A Mr. Magi's.

Q You say you financed this movie?

A Yes.

Q How much did it cost?

A It cost about nine to ten thousand dollars.

Q Where did you get the money?

A I saved and borrowed.

Q You saved and borrowed?

A Yes.

Q How much did you borrow?

A From the bank over \$2,000, and from my mother over \$1,000.

Q And so the rest of the six or seven thousand dollars you took out of savings?

A Yes.

Q Savings which you had acquired since arriving in Canada in 1957?

A Yes.

Q Did you bring any money from Germany with you?

A I was paid over \$1,000, I believe it was \$1,500, as damage money or -- I don't know how it's called.

Q By whom?

A By the German Government.

Q And you came to Canada with that \$1,500?

A Yes.

Q Incidentally, had you ever been to North America

before?

A No.

Q Was this your first ocean trip?

A Yes.

Q And you don't remember the name of the ship you were on?

A No.

Q And you don't remember the ports that the ship stopped at?

A No.

Q Did anybody in this picture, did Mr. Magi, for example, put up any money?

A Some, yes; but when he left we gave him some instruments, what was there for making movies, and he said, "That's it; we are even now." It was a couple of hundred dollars what he put in.

Q Mr. Magi put a couple of hundred dollars in it?

A Yes.

Q And you gave him some instruments?

A Yes.

Q What do you mean by "instruments"?

A Some -- how is it called?

Q You mean a camera?

A No. A generator. I can't translate it rightly. What generates electricity from a battery to -- not pulsating, that is electricity, you know.

Q A transformer?

A About like that thing, yes.

Q What were you using a transformer for in making a movie?

A For example, when we went to outdoors, there weren't everywhere electricity by hand we had to use.

Q This is a hand generator?

A No; it's generated over from a battery so that the movie camera would run. It was electrically run.

Q How long did this movie last, if you were showing it?

A Originally it was two and a half hours, but before I sent it to Germany and Europe, I cut it down to two hours.

Q When you showed it on your lecture tour, how long was it?

A Two and a half hours.

Q Was this filmed on 16 or 18 millimeter film?

A 16.

Q And you wrote the script, did you?

A Yes.



Q Do you still have a copy of the movie?

A From the script?

Q Do you still have a copy of the film?

A Only the negative.

Q That's all anyone ever has of a movie, isn't it?

A Pardon?

Q That's all anyone ever has of a motion picture, isn't it, the negative?

Do you have the reels that make up the movie?

A I have in my possession only the negative of this film.

Q That's all anybody has when they have a motion picture, isn't it? Have you ever seen a positive of a motion picture?

A Oh, yes.

Q You have?

A Certainly.

Q Where?

A It's in Sweden now.

Q A positive of a motion picture?

A Yes, a copy, first copy.

Q A print?

A Yes.

Q I have never heard of one.

But, if I had a 16-millimeter projector and a screen here and you had the film with you, we could see it, could we not?

A No.

Q Why not?

A Because I have only the negative.

Q I am not sure I understand what a negative is then as you are using it.

A That's the first thing when you put film in and run it, and first you develop it into a negative; and with that negative you make the positive film, the real plain film.

Q Look, Mr. Heine, if I had a 16-millimeter projector and put a film on it that was developed --

A That's reverserfilm. You have the reverser film in your camera.

Q I have the what?

A Reverser film it's called.

MR. PRETTYMAN: Reversal?

THE WITNESS: Yes; reversal. When you have made these shots, you go to a movie laboratory and they develop it instantly into a pcsitive, but by making --

BY MR. CONNOLLY:

Q Are you talking about stills or are you talking about motion pictures?

A Motion pictures.

Q I am talking about motion pictures, too.

If I were to go across the street to a camera store and rented a 16-millemeter camera and put a magazine, a 16-millimeter film in there and had sufficient light and ran it, had it developed --

A Yes.

Q -- then I could put it on a projector, could I not?

A Yes.

Q And if you had a screen you could see the motion pictures that were taken?

A Yes, you can.

Q Do you have that kind of film?

A No.

Q What kind of film do you have?

A I have in my possession only negatives.

Q What is negative?

A When you make a movie, a sound movie, first what you have to do is run that film and make these shots, and then you go to a laboratory and there they make from that negative

they make two copies, two positive strips, and you cut that -- that is called a work print -- you cut this into "A" and "B" rolls, and after that you have when you make a sound movie, you have several rolls of sound track, strips; these you have to develop and cut, and put into synchronization, and then you take all these six strips again to a laboratory, and then they develop it into plain film.

Q Now, when you used the term "negative," you mean that you have the motion pictures that were first shot without having the sound track on them?

A I have, yes.

Q The first raw film?

A I have the end product of what it is. These six strips are sent to the laboratory, and from there is made all sounds, the sound effects, music and the dialogue, and these two negative strips are developed into one negative, and from that it's all in one now, all the sound and the original movie, and from that negative you develop first copy and from that negative you can make as many copies as you want, depending on how much money you have.

Q How many did you make?

A Of what?

Q How many prints of the film did you make?

A One.

Q You only had one film?

A Yes.

Q And you sent that to Germany?

A Yes; to Germany.

Q When?

A It was last year in May.

Q May of 1964?

A Yes.

Q To whom did you send it?

A To Estonian Wounded War Veterans' Association in Germany.

Q Where, in Germany?

A Correction. I sent it directly to Sweden with the consent of these German Estonian War Veterans' Association.

Q To whom did you send it in Sweden?

A Evsti Invalidide Capital, also an organization to help Estonian War Wounded.

Q What is the name of it?

A Evsti Invalidide Capital.

Q Spell it, please.

MR. RASKAUSKAS: He can write it out easier.

THE WITNESS: (Complies).

BY MR. CONNOLLY:

Q What is the translation of this?

A Capital or Funds for Estonian War Injured or some thing like that.

Q Invalidides?

A Yes.

Q And this is located in Sweden?

A Stockholm.

Q What is the address?

A I haven't that here.

Q Where is it?

A At home.

Q Would you supply that address?

A Yes. *P.O. Box 2028, Stockholm 2*

Q And you sent your film to this fund in Stockholm last May?

A Yes.

Q May of 1964?

A Yes.

May I ask a question, please?

Q Yes.

A We can make that date very certain if some of you gentlemen remember when Krushchev visited Sweden. For that

occasion I sent it directly to Sweden.

Q At whose request?

A That was my own idea.

Q They didn't request it?

A No.

Q Have you received an acknowledgment from them?

A Yes.

Q Have they shown the film, do you know?

A Yes.

Q Have you given the film to the fund?

A I have given that film to the central organization of Estonian War Damage, War Invalids in Germany that has all these war wounded, has one central organization, and that lies in Germany.

Q What is the address in Germany?

A I haven't it here I am afraid, sir.

Q Can you supply it?

A Yes.

*Verband Estnischer Kriegsversehrter  
6900 Heidelberg 1  
Postfach 1909*

Q And the central organization in Germany asked you to send it to Sweden?

A No. I made a proposal to send it to Sweden to counteract the visit of Mr. Krushchev and the results what it may have on Estonian people there, to counteract on them.

Q Have you ever been to Sweden?

A No.

Q Do you know anybody in Sweden?

A No.

Q Have you ever known any friends in Sweden?

A There are some friends of mine.

Q Who?

A One is Mr. Pae; Ahti Pae.

Q Anyone else?

A I don't recollect. There are, but the names I don't presently recollect.

Q Mr. Ahti Pae is in Stockholm, is he?

A Yes.

Q Have you had any correspondence with him concerning your film?

A Not yet.

Q Have you asked or received any letters from Sweden saying that anyone ever saw the film?

A I have read the Estonian papers about that movie in Sweden.

Q There is an Estonian newspaper published in Sweden?

A Yes.

Q And you get copies of it?

A I haven't got them, but some of my acquaintance have,



and I read the articles.

Q They let you see it?

A Oh, yes.

Q Do you have correspondence from the central office in Germany for the Fund for Estonian Invalids, acknowledging the receipt of your film?

A Not that receipt, but when I made that proposal to give that movie to that fund, central fund, they then agreed and they accepted that, and I made the proposition first to directly send it to Sweden to counteract Mr. Krushchev's visit there. And they agreed, and I sent it by air post directly to Stockholm.

Q You sent it by air mail?

A Yes.

Q Did you insure it?

A Yes.

Q Do you have the receipts for it?

A I think so, yes.

Q My point is, what documentation do you have to show that the Germans or the Swedes acknowledged the gift or the receipt of the film?

A I have only a letter from Germany.

Q Accepting your offer?

A Yes.

Q Do you expect to get the film back?

A When it's through Europe, Sweden, Germany, France, England, Holland, Belgium, then I expect to get it back, and then I will send it to Australia and to South American.

Q Now, do you expect to make any money from the use of the film in Europe?

A No.

Q You have given the film for their use?

A All profits are going to these war invalids.

Q You are receiving nothing whatsoever?

A No.

Q You are out of debt and you have paid for the film, haven't you?

A I am in debt.

Q On account of the production of the film?

A Yes.

Q How much?

A You mean damages?

Q No. You say it cost you nine or ten thousand dollars to make this film?

A Yes.

Q You said that you have used about \$7,000 of your own

money and the rest, the \$2,000, you got from a bank, and \$1,000 from your mother?

A Yes.

Q Now, what bank, incidentally, did you make this loan from?

A The Estonian Credit Union. ✓

Q Where?

A In Toronto.

Q Has that loan been repaid?

A Not fully.

Q How much is still owing on it?

A \$1,200.

Q So, only \$800 has been paid?

A Yes; about.

Q Evald Magi, is he liable on that loan?

A No. I am sorry, I don't understand you.

Q Is he responsible for any part of that loan?

A I don't recollect that.

Q Suppose you don't pay the loan off, what happens to Magi? Did he sign the note?

A I don't recollect that. I have to look after that.

Q What documents do you have?

A Only my bankbook is what I have.

Q How about your mother? Have you paid her the \$1,000?

A Not entirely.

Q How much do you still owe her?

A About \$700.

Q Have you gotten back the \$7,000 you put into the film out of your own pocket?

A Not yet.

Q How much are you short?

A That we have to figure out. I am about \$1,000 in debt myself on my personal account after these bank loans and so on.

Q You keep your savings in what bank?

A The Estonian Credit Union. After that is not included, that loan for bank and my mother.

Q But of the \$7,000 savings you started out with, you have only gotten six back, in other words?

A Yes.

Q Now, coming back to the film, suppose we wanted to see this film, we couldn't see it you say?

A I have to request them to send it back.

MR. STANFORD: You can pay for a copy to be made.

BY MR. CONNOLLY:

Q Can you duplicate the film by the materials which you have in your possession?

A If I have money, yes.

Q How much does it cost?

A To duplicate, about \$1,000.

Q You cut the film before you sent it abroad --

A Yes.

Q -- from two and a half to two hours?

A Yes.

Q Why?

A Because it was too long.

Q What did you cut out?

A These scenes that were too bothersome, too long, that the action was too slow, to make that film more active and more lively.

Q Did you keep the film that was cut?

A Oh, yes.

Q You still have that in your possession?

A Yes.

Q And if we wanted to see the complete movie as it was shown in the United States, all we would have to do is to pay you \$1,000 and you could get the duplicate of the original?

A Yes.

Q Now, you say this film was about your exploits?

A My men mostly, my men's and mine, yes.

Q Was some of it about your men and some of it that was about you?

A Yes.

Q Who played you in the movie?

A Part of the time Mr. Arbo Vabmae.

Q Who played you the other time?

A For my life it was only a few scenes there; most of the part what I wrote in that movie script, that was from my first superior in the guerrilla group.

Q I am not sure I understood you, sir.

A I made that script and put in one piece all the experiences of mine, of my friend, my first superior.

Q Who was that?

A That was a Captain Endel Parts.

Q The film is about your exploits and those of your first superior?

A And my men, my comrades.

Q Is the film broken up so that part is about your exploits and those of your men, and part is about those of the exploits of Endel Parts?

A No; it's all one continuous story.

Q And by exploits, in what fashion are these, guerrilla activities?

A Guerrilla activities against the Communists.

Q Purportedly set in what period of time?

A In about a one-year or two-year period.

Q What year or two?

A '46-'48.

Q It's purportedly set in what part of Estonia?

A County of Jarrvanaa; it's in the middle of Estonia.

Q I have a National Geographic Society map of Scandanavia showing Estonia.

Could you point it out to Mr. Prettyman, please?

A Yes. You want the vicinity where I was a guerrilla?

Q No; the name of the city that you just mentioned.

A Not city, county. It's here, about here (indicating), about in the middle of Estonia.

Q How accurate did this movie purport to be?

A In what way?

Q You wrote the script, I take it?

A Yes.

Q What kind of literary license, if I may use that

term, did you take with the actual truth and facts?

A One-hundred per cent.

Q You mean everything that is shown in the movie --

A Has happened.

Q -- has happened and it's portrayed as best as you could portray it on film as it actually happened?

A Yes.

Q Now, I have heard that a book has been written about your exploits; is that so?

A Yes.

Q Who is the author of the book?

A Mr. Viirlaid.

Q Could I have his last name and address?

A V-I-I-R-L-A-I-D (spelling).

MR. CONNOLLY: If counsel is agreeable, I suggest we take a short recess.

MR. RASKAUSKAS: All right.

(Whereupon, by agreement of counsel a short recess of the deposition was taken).

- 0 -



MR. CONNOLLY: Back on the record.

BY MR. CONNOLLY:

Q Mr. Heine, you just gave me the name of Mr. Viirlaid who authored a book about your experiences?

A Yes..

Q Was he a companion of yours in those days?

A No.

Q How did he find the material to write the book?

A When I came to the Free World, the news got all over the world, there was a story in the newspaper, and when he learned that I was going to Canada, he arranged a meeting with us and then I gave him the right about my story.

Q He must have spent a great deal of time learning about it?

A Yes.

Q Did he come to Canada?

A He lived here before I was here.

Q In Canada?

A Yes.

Q Is he still in Canada?

A Yes.

Q In Toronto?

A Yes, in Toronto.

Q You must have visited with him frequently?

A Yes.

Q And you told him your story?

A Yes.

Q Is the story in his book an accurate account of your experiences?

A In the first book, yes, about ninety-five percent of all actual happenings.

Q You say "in the first book"?

A Yes.

Q Was there more than one?

A Two are coming.

Q Two are coming?

A Yes.

Q What period of time does the first book devote itself to?

A Forty until forty-six.

Q This is your life?

A Yes.

Q Between forty and forty-six?

A Yes.

Q When will the second volume be finished?

A Next month.

Q And it will take up what period of time?

A These two last volumes take about until I was sent again to -- I was again arrested and sent to Russian slave camps.

Q Well, the first book stops in forty-six?

A I am sorry?

Q The first book stops in forty-six?

A Forty-six to fifty, fifty-one.

Q The third one will be from fifty-one to fifty-six?

A No, it ends there. Forty-six to fifty-one.

Because after that I was six years in prison camp and it was only repeating what was in the first one.

Q I see. Are both the second and the third volumes coming out next month?

A The second volume in March, I think, and the third volume some time in the autumn.

Q This book is written in Estonian, is it?

A Yes.

Q Is there an English translation?

A Yes.

Q Where can I get an English translation?

A You have to apply to buy a book in English when they send it here.

Q You mean,, it is not available?

A Not yet.

Q In Canada?

A Not yet.

Q Nor in the United States?

A No.

Q Is it available in Europe in English?

A I think it is now, yes.

Q And where?

A In Europe I believe in Germany.

Q Has it been printed in more languages than Estonian and English?

A No.

Q It has not been printed in German?

A No.

Q You obviously speak Estonian, do you not?

A Yes.

Q You speak English?

A As you see.

Q I think you do it splendidly.

A Thank you.

Q Do you speak German?

A Yes.

Q French?

A No.

Q Russian?

A Yes.

Q Do you speak them all as fluently as you speak English?

A Maybe Russian and German better than I speak English.

Q Any other languages?

A A little bit Finnish.

Q Any Swedish?

A No.

Q But you don't know of any place where I can buy a copy of this book in English?

A No.

Q Or where I can send for it?

A No.

Q Do you get any royalties from the sale of this book?

A No.

Q It is all Mr. Viirlaid's?

A He gets very little himself, too.

Q Where does the profit from the sale of the book go?

A You know, a small nation, when the writer of a small nation -- once his book is published in another language, he has to retire all his rights or almost all his rights to the publisher to have that book published in English or German, and that is a sorry thing about that.

Q You say ninety-five percent of this book is accurate, and I take it then Mr. Viirlaid took a little bit of license with some facts?

A Artistic, you know, to bring it to an artistic level, maybe some dialogues or so.

MR. STANFORD: I don't think he fully understands the word "license". I think he understands the thought, but you used the word "license" before and his answer was diametrically opposite to what you had asked, so I think he might not fully understand that.

BY MR. CONNOLLY:

Q He has dressed up a few facts, has he, in order to make them artistically more --

A No, not dressed up. For example, you can't publish three letter words and they had to be a little more literary words.

Q So everything that is in there is true, except that all isn't in there, is that right?

A Oh, yes, that is what I am saying, but hard facts of life, homosexuality, you can't put that in, what we met there, you can't publish that kind of book here.

Q Now, Mr. Heine, did you hire a lawyer in Ontario by the name Harry Landra?

A Yes.

Q Did you also ask Harry Landra to write a letter to Juri Raus last January?

A Yes.

Q I am going to show you a letter, a copy of a letter -- I just made a Xerox copy of it -- and ask you if that is the letter that you authorized Mr. Landra to send (indicating)?

(The letter above referred to was thereupon examined by both counsel for the plaintiff.)

(The letter above referred to was thereupon examined by the witness.)

THE WITNESS: Yes, that is the same letter.

BY MR. CONNOLLY:

Q You have seen that before?

A Yes.

Q You authorized Mr. Landra to send that?

A Yes.

MR. CONNOLLY: I am going to mark this D.X. 1,  
Defendant's Exhibit One (indicating).

(The letter above referred to  
was thereupon by counsel marked  
Defendant's Exhibit No. 1 for  
Identification and was retained  
by counsel for the defendant.)

BY MR. CONNOLLY:

Q Would you mind at this point taking the language  
of the apology that is demanded here and give us the English  
version of it for the record?

A I will try.

"Public apology. I, Juri Raus, make public apo-  
logy before Mr. Heine. I am saying that it is a fact  
that this announcement made by me as if Mr. Eerik Heine  
is a communist agent and as if the same Eerik Heine  
is a very suspicious person doesn't comply to the true  
facts. I assure that I have no accusations against  
Mr. Heine. Signed Juri Raus."

That is roughly -- it is roughly.

Q Thank you.

MR. STANFORD: Do you have a copy of it?

THE WITNESS: Yes.

BY MR. CONNOLLY:

Q Did you have or do you have a letter from J. Edgar



Hoover, Director of the Federal Bureau of Investigation  
dated December 18, 1963?

A Yes.

Q Concerning you?

A Yes, I have it.

Q Do you have it with you?

A May I look here?

(Whereupon the witness examined his briefcase.)

THE WITNESS: Yes (indicating).

(Whereupon a document was handed counsel for the  
plaintiff who examined it and thereupon handed counsel for  
the defendant.)

BY MR. CONNOLLY:

Q Who is the Podraing who is referred to in this  
letter?

A He is a member of New York Estonian Veterans'  
Association. Was a member.

Q Did he make any accusations against you that you  
were a communist agent?

A Yes.

Q Who told you about that?

A I believe it was Mr. Allikas.

Q Have you seen Mr. Podraing?

A My lawyer from Toronto sent that same kind of letter to Mr. Podraing.

Q He didn't publish the apology, did he?

A He didn't accept the letter at all.

Q I beg your pardon?

A He refused to accept that letter. He didn't let the postman in.

Q But you haven't sued him, have you?

A No.

Q Mr. Raus has never published his apology either?

A No.

Q This document which has been handed me bears the notary seal of Harry Landra. It appears to be clipped at the bottom and there is an onion skin stapled to it which is entitled "Certificate of true copy", wherein Harry Landra says that the document attached is a true copy of a letter from the United States Department of Justice, to him dated December 18, 1963.

The letter attached appears to be a Xerox reproduction of a letter on the letterhead of the United States Department of Justice, Federal Bureau of Investigation, Washington 25, D. C. dated December 18, 1963.

The letter reads:

"Mr. Harry Landra

"2 Dalena Drive

"Don Mills, Ontario

"Dear Mr. Landra:

"I have received your letter of December 9th,  
with enclosure, concerning Mr. Eerik Heine.

"In response to your request, this Bureau does  
not issue clearances or non-clearances of any type.  
Therefore, I trust you understand why I am not in a  
position to be of assistance to Mr. Heine, and you  
may be assured that this Bureau has not released  
any information which could be the basis for the  
alleged charges against him.

"Sincerely,

(Signature)

"J. Edgar Hoover

"Director."

Now, what is Mr. Landra's letter of December 9th,  
do you have a copy of that?

A I will look.

(Whereupon, the witness examined his briefcase).

THE WITNESS: I am sorry.

MR. STANFORD: This is it (indicating).

(Whereupon, a document was handed counsel for the  
defendant who examined it).

BY MR. CONNOLLY:

Q This letter is written on the letterhead of Harry Landra, Barrister and solicitor and Notary Public, 2 Dalena Drive, Don Mills, Ontario, Telephone 447-4401 and dated December 9, 1963 addressed to Headquarters of Federal Bureau of Investigation, Ninth Street and Pennsylvania Avenue, Northwest, Washington, D. C., U. S. A.

"Gentlemen:

"Re: Eerik Heine

"We enclose herewith the affidavit of Eerik Heine in duplicate.

"Mr. Heine has been accused many times by one Juri Raus and other members of the Estonian War Veterans organization of being a communist agent.

"According to the allegations of the members of aforesaid these accusations are founded on investigations made by you. As you can see, Mr. Heine denies all these accusations in his affidavit and provides in his affidavit the data of his anti-communist activities.

"Mr. Heine is willing to answer any questions under oath connected with the matter of aforesaid and submit himself to a lie detector test if you so desire.

"Mr. Heine's only request is that you assist him

in clearing his name before the Estonian communities in U. S. A. and Canada.

"Kindly contact us in the matter aforesaid in order to enable us to take the proper necessary steps to protect Mr. Heine's reputation.

Yours very truly

(Signature) Harry Landra."

Do you have the affidavit this letter speaks of?

A Yes.

(Whereupon a document was handed counsel for the defendant.)

MR. CONNOLLY: Thank you.

I have been handed what purports to be an affidavit marked "Dominion of Canada, Province of Ontario, County of York, Re: Eerik Heine".

I would like to take these three documents (indicating) and make copies of them.

MR. RASKAUSKAS: I would like for you to have full and complete discovery. I have a brief leaflet here (indicating) on the "legend" movie and I also offer to supply you with the name of the publisher in South Africa that has published the English version of the novel about Mr. Heine.

MR. CONNOLLY: Fine. Do you have his name?

MR. RASKAUSKAS: I have that part of my file in the office.

(Whereupon a brief recess was taken during which counsel for the defendant left the hearing room.)

#2

MR. CONNOLLY: For the purpose of identification I think at this point the record ought to show that the affidavit of Harry Landra and its attachment with the letter purportedly from J. Edgar Hoover as one document should be marked D. X. 2, Defendant's Exhibit Number 2.

(The documents above referred to were thereupon by counsel marked Defendant's Exhibit Number 2 for Identification.)

MR. STANFORD: O. K.

MR. CONNOLLY: The letter from Harry Landra dated December 9, 1963 will be marked D. X. 3, Defendant's Exhibit Number 3.

(The document above referred to was thereupon by counsel marked Defendant's Exhibit Number 3 for Identification.)

MR. CONNOLLY: The affidavit of Eerik Heine which was an enclosure to that letter will be marked D. X. 4, Defendant's Exhibit Number 4.

(The document above referred to was thereupon by counsel marked Defendant's Exhibit Number 4 for Identification.)

MR. CONNOLLY: And the leaflet that Mr. Raskaiskas has provided me before we went into the room to copy these (indicating), which is an English and presumably Estonian flyer and has to do with the movie "Creators of Legend" will be marked D. X. 5, Defendant's number 5.

(The document above referred to was thereupon by counsel marked Defendant's Exhibit Number 5 for Identification.)

BY MR. CONNOLLY:

Q You say the movie, "Creators of Legend" had to do with activities of guerilla units under your command and the command of a man by the name of Parts?

A Yes.

Q When you were in Central Estonia?

A Yes.

Q What time?

A Forty-six until fifty.

Q Forty-six until fifty?

A Yes.

Q During all of those four years, you acted as a guerilla inside Soviet-occupied Estonia?

A Yes.

Q Did you spend all of that time, those four years,

in the central part of Estonia as you marked on the chart here?

A Yes.

Q Was there any occasion when you went elsewhere?

A Yes.

Q When?

A To visit secretly my home town, Tartu, a couple of times in the night and then to Russia in 1947 to bring back some deported persons and a couple of trips to the old capital city, Tallinn.

Q Are any of those ventures shown in this movie?

A No, mostly only the vicinity of that county where I was acting guerilla.

Q The trips to Russia and to Tallinn and Tartu are not there?

A No.

Q With reference to the letter to Mr.Landra that was purportedly sent by Mr. J. Edgar Hoover, do you know what he means when he is speaking about "clearances and non-clearances"?

A Mr.Landra asked about the accusations that Mr. Raus has made, that according to F. B. I. I am a communist agent and a communist Soviet spy and communist agent.



Q Mr. Landra's second last paragraph says:

"Mr. Heine's only request is that you assist him in clearing his name before the Estonian communities in U. S. A. and Canada."

A Yes.

Q Mr. Hoover says that the Bureau does not issue clearances or non-clearances of any type.

A Because Raus made the statement before a meeting, an official statement which was protocolled, that I am, according to F. B. I., I am a Soviet spy and an M. B. G. agent.

Q A what?

A That is Soviet Secret Police agent, M. G. B.

Q M. G. B.?

A Yes, M. G. B.

Q Did you ever hear him make this accusation?

A I didn't hear that.

Q It has been told you?

A I was sent a copy of that protocol and was told.

Q A copy of what protocol?

A Of that meeting where was made that official accusation against me.

Q Where?

A In New York.

Q Do you have a copy of it?

A It is in Estonian. It has to be translated.

Q All right, let us hear what it says.

A Just a moment, please.

May I translate (indicating)?

Q Just a minute, let me look at the document first.

(Whereupon a document was handed counsel for the defendant.)

THE WITNESS: That is a photocopy of the original.

MR. CONNOLLY: I will mark this D. X. 6, Defendant's Number 6.

(The document above referred to was thereupon by counsel marked Defendant's Exhibit Number 6 for Identification.)

BY MR. CONNOLLY:

Q This document that has been marked Defendant's Exhibit Number 6 or D. X. 6, is this the one you received or have you made a copy of it?

A That is the copy.

Q The copy that you have made?

A Mr. Keerd made a copy.

Q Is this (indicating) in the same condition in which you received it?

A How can I say that? That is a copy from the original.

MR. STANFORD: Is this what you received?

THE WITNESS: No, I received the original and the copy that was sent to me.

BY MR. CONNOLLY:

Q There was an original --

A Yes.

Q -- and a copy sent to you?

A Yes.

Q And this which is now marked D. X. 6 is the copy?

A The copy.

Q It is identical with the original?

A Yes.

Q Now, would you like to translate it?

A If you allow me, I will try.

Q Thank you.

A "The Ninth of November 1963 in New York, there was held a special meeting of New York Branch of Veterans of Estonian Liberation. In accordance of the United States Estonian Veterans of Estonian

Liberation to discuss the question and make a statement. Present were the Chairman, Mr. Keerd, Vice Chairman Mr. Allikas, Secretary Kruus, Treasurer Mr. Derrick and members of the Committee, Mr. Kynapas and Mr. Parming, and a representative of a village of Estonians on Long Island. The meeting began nine o'clock in the evening. At the meeting of New York Branch of Veterans of Estonian Liberation, the Chairman, Mr. Raus made an official announcement that United States Federal Bureau of Investigation, Lieutenant Eerike Heine is a K. G. B. agent. On the question of Chairman of New York Branch, which concrete accusations has Mr. Raus to put forward, Mr. Raus answered that United States agencies don't give out no concrete data and the facts offered or stated by Mr. Raus, it is a fact that Mr. Heine is a Soviet spy. The Committee of New York Branch of Veterans of Estonian Liberation declared -- acknowledged the statement of the United States Committee -- the statement of the Chairman of the United States Committee of Veterans of Estonian Liberation, that Lieutenant Heine is according to United States security agents, Mr. Raus had said that Mr. Heine according to United States security

agents' statements is a K. G. B. agent, what New York Branch Committee hears the first time and announces that it stops the discussion of that topic until the case of Lieutenant Heine is cleared, that that accusation is cleared off."

I am sorry, I did as best I could.

Q What is the date of that, Mr. Heine?

A November 9th, 1963.

Q And you received it when?

A Maybe about a couple of weeks after it happened.

Q Is that the only place that you know of, where Mr. Raus alleges that the F. B. I. told him that you were a K. G. B. agent?

A No, I hear in Baltimore and in Washington -- he has made the same accusations against me.

Q How do you know that?

A Mr. Kukland told me about that.

Q Do you have anything from Mr. Kukland in writing to that effect?

A No, I don't think so.

Q Other than this document which is marked Defendant's Exhibit Number 6, do you have anything else in writing from any third person saying that Juri Raus has accused

you of being a K. G. B. agent or a Soviet or a communist spy?

A I think I have a letter from Mr. Keerd -- a couple of letters from Mr. Keerd. I believe I have.

Q Have you talked to Mr. Raus about this?

A Not directly, but through middlemens -- middlemen.

Q Did you ever write to him?

A Yes.

Q You personally?

A Yes.

Q Do you have a copy of the letter?

A No.

Q Did he ever respond?

A No.

Q Did you write him and ask him what basis he had for making these accusations?

A I wrote a letter to Mr. Raus' best friend here in Washington.

Q Who is that?

A Mr. Krabbe.

Q Krabbe?

A Yes.

Q How do you know he is his best friend?

A They were both at the same school in Germany when the war ended and they are very often together as I have heard.

Q That is hearsay, is that right?

A Mr. Krabbe told me too "Mr. Raus is my best friend".

Q I see. You have tried to talk to or communicate with Raus through Krabbe?

A Yes, I told Mr. Krabbe that -- to put some sense in his mind.

Q When did you do this?

A I believe it was last year, beginning of last year. Specific date I don't remember now.

Q What reply did Mr. Krabbe make?

A No reply at all.

Q Have you been active at all in various committees of Estonian emigres in either the United States or Canada?

A In Canada, yes.

Q What committees or what organizations have you been active in?

A In Estonian War Veterans Association in Toronto.

Q Is that the correct name of it, Estonian War Veterans Association?

A Yes.

Q And then?

A Estonian Council of Canada.

Q Estonian Council of Canada?

A Yes.

Q Is that the correct name of it?

A Yes.

Q Those two?

A Yes.

Q Anything else?

A Boy Scouts.

Q Boy Scouts? Not Estonian Boy Scouts?

A Oh, yes.

Q In Canada?

A Yes.

Q What is the name of it?

A Boy Scouts.

Q Well, does it have any Estonian identification?

A Scouted, Scouts -- is it in Estonian the same,  
about.

Q I want only your identification with Estonian  
organizations?

A Yes.



Q The Boy Scouts in Canada are not exclusively an Estonian organization, I am sure?

A Oh, yes, there are only Estonians there.

Q Oh, really?

A Yes. That is a branch of the all world Boy Scout movement.

Q All right, let us talk about the Estonian Boy Scout troop that you are identified with. What is your identification? Are you a scout master?

A Junior scout master.

Q How long have you been engaged in this activity?

A About six or five years.

Q You have no children of your own?

A No.

Q What do you do with the youngsters?

A We have our own club called "Veterans", older boys like myself, a special category, group. We have camps, camp sites, large camp sites. We build camp sites for younger ones.

Q I am confused. This is a little different than my knowledge --

A Yes, that is different, yes.

Q You are a junior scout master?

A Yes.

Q Now, do you have command or authority in that position over any boy scouts?

A I belong to a committee of scoutmasters.

Q How large is the committee?

A About thirty or thirty-five persons.

Q All with Estonian background?

A Yes.

Q And you go into the woods and you build campsites?

A Yes.

Q How many camp sites?

A We have a very big one in Northern Ontario.

Q What is the name of it?

A Muskoka.

Q Can you spell it?

A I will write it.

Q But you don't have anything directly to do with the young boys?

A No.

Q Do you have anything to do with suggesting, planning or running any programs for the scouts when they go to these camps?

A No.

Q You don't teach them anything about outdoor life or woodcraft or woodmanship or anything of that sort?

A No.

Q All right, now, the Estonian Council of Canada, what is that organization, what is its purpose and where is it located?

A That is located in Toronto and its purpose is to liberate Estonia once again.

Q And are people of Estonian ancestry or background invited to be members of this organization?

A Yes.

Q Does it have a headquarters?

A Yes.

Q Where is the headquarters?

A In Toronto.

Q What is the address?

*Estonian Central Council  
958 Broadview Ave.  
Toronto 6, Ont. Canada*

A I don't have that address here.

Q Do you go to it frequently?

A Yes, I was until recently a Vice Chairman of that committee.

Q When you attend the meetings you take a taxicab or a streetcar. Now, where do you go to?

A I take my car, my own car.

Q Where do you go? You have to know where to go to?

A Yes, I know exactly where it is but I don't remember the number of that house.

Q What is the name of the street?

A Bay View.

Q Bay View?

A Bay View, yes.

Q Near what?

A Near Ploor.

Q And until recently you were Vice Chairman?

A Yes.

Q How recently?

A I believe until last year in November.

Q You have been out of office now just three months?

A Yes.

Q Were you ineligible to succeed yourself?

A I beg your pardon?

Q Were you able to run again?

A When that thing is cleared off, then I can.

Q What thing?

A That libel and accusation.

Q Why did the accusation have anything to do with

your not continuing in office?

A Oh, yes.

Q Will you explain that, please?

A Because some of the members of that committee were doubtful too, about these accusations of Mr. Haus and they are doubtful and nobody has said so, open, to me, but rumors and so on, they come from overall, that there is something. They are very suspicious about me and I decided to keep that peace and cooperation inside that organization and I resigned until that is cleared off.

Q How many members are there of the Council?

A In the Council are fifty-two members. There is the Committee, the Central Committee, but the Committee is elected this way: All over Canada, Estonians all over Canada every three years there is election, and you put your candidates on a list and then a couple of thousand or ten thousand people or whatever, they cast their ballots and they elect then a committee of fifty-two men.

Originally elected are thirty-two. Others are in officio, so that former Estonian parliament members and former Estonian ministers are automatically, they belong to that Central Committee.

Q I see. So thirty-two have positions by virtue

of their former positions in Estonia and thirty-two are elected?

A About so.

Q On a triannual basis, every three years?

A Yes.

Q Have you been a member of the Council since you arrived in Canada?

A Yes, sir.

Q What was the first year in which you were elected to the Council?

A I think it was '59 or so.

Q So your term would have expired --

A Excuse me. Every three years they are elected and last year, '63 -- I believe in April or May, there were elections and I won that election. I had the most votes of all. I was on top of the list.

Q More votes than any candidate?

A More votes than any candidate.

Q In the elction of when? Of May, 1963?

A Yes.

Q You were elected to a three year term on the Council?

A Yes.

Q Now, who elects Chairman, Vice Chairman, et cetera?

A The Central Committee.

Q Now, when were you elected Vice Chairman?

A November '63, I believe.

Q Who was elected Chairman?

A One Mr. Parkma.

Q What is his first name?

A Harry.

Q Are you still a member of the Council of the Central Committee?

A Yes.

Q You did not resign that position?

A No.

Q But you did resign the position of Vice Chairman?

A Oh, yes.

Q Did the controversy and disagreement arising in the proceedings of the Council Central Committee have to do with charges that had been levelled against you?

A Yes.

Q Tell us how that came up and how this controversy began?

A In one regular meeting of that Council, there are seven members, Chairman, Vice Chairman, Secretary, Treasurer

and one or two members without portefolio, as you call it.

One day I saw or felt that something was not very honest about that thing and on one occasion one member of that Central Committee -- I was not present -- but he made there accusations that I am a very suspicious person and I would do better when I go away from Toronto somewhere, to Sudbury.

Q Where?

A Sudbury. That is a town in Northern Ontario and known as a center of communist movement in Canada. That was quite enough for me, then.

Q You weren't present?

A No.

Q But somebody told you about this?

A Yes. The next meeting I was present and before that I was told and then -- I was told about that and that person was there, too, and he apologized that he hadn't meant that, but then I heard another rumor, what came from here. One member I remember was Mr. Ilmar Raamot.

Q Where does he live?

A In New York.

Q I would like for you to write down the name of the person who levelled the charge against you in the council?



A The person who launched that accusation against me in that Council was Mr. Joe, Mr. Heino Joe, and after that I heard from other persons that Mr. Ilmar Raamot has spread the rumor that Mr. Heine is for sure a communist agent and that he knows that to be true, because government agents have given these facts to Estonian people in America.

Q This is Mr. Heino Joe?

A Heino Joe, yes.

Q Did he tell you that he got this information from Juri Raus?

A He didn't tell me, but the people in the Council told me that Mr. Raamot is spreading around that -- the same accusation as Mr. Raus.

Q Did you have supporters in the Council?

A I had, yes.

Q Do you still?

A I have, yes.

Q But you resigned?

A Yes.

Q And said that you would remain resigned until after this lawsuit was over?

A Yes.

Q But you still are a member of the Council?

A Yes.

Q Now, what does the Council do in terms of day to day or meeting to meeting performance?

A Publishing booklets about the perils of communism.

Q About what?

A About the perils and dangers of communism. Then, raise money for example for Radio Free Europe to send programs over the Iron Curtain to Estonia, then raise money for Estonian invalids, the war wounded in Germany, then, statements for government agencies about decisions they make, memorandums are sent when some decision is made that can, maybe, damage the possibility of freeing our native homeland, and so on.

We don't demand nothing, but we make suggestions that may be tried.

Q Has the Council raised money for Radio Free Europe?

A Yes.

Q Has it been given?

A Yes.

Q Annually?

A It began last year and I contributed -- that movie was still here and before I sent it to Sweden, I made in Toronto the performance of that movie, all that income went

to that.

Q Prior to last year, did the Council give any money to Radio Free Europe?

A No.

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Q Did the Council last year give money to any Estonian Veterans organization?

A Yes, every year.

Q Where is that sent?

A In Germany.

Q Where in Germany?

A Just a moment. I have it at home, I think, what town it is there. I can't recollect, sorry.

Q Will you supply that later?

A Yes. *As page 66 line 18*

Q When you have occasion to do so?

A Yes.

Q Did you personally send the money?

A No.

Q Now, has this Estonian Council raised any money for any other project?

A Oh, yes, for anti-communist leaflets.

Q Anti-communist leaflets?

A Yes.

Q For distribution where?

A All over the world, free world.

Q All over the free world?

A Yes.

Q Has money been raised for that purpose?

A It is completed already, a couple of years ago.

Q All right, I was going to ask you, when was that done?

A It was 1961, I believe. I am not sure of the date.

Q Were the leaflets distributed?

A Oh, yes.

Q And you say all over the free world?

A Yes, in Europe.

Q To whom were they distributed?

A Local Estonian organizations. We sent it there.

Q Where were these leaflets printed?

A In Toronto.

Q Do you have or does the Estonian Committee there maintain a press?

A No.

Q Does it maintain a newspaper?

A There are two newspapers in Toronto.

Q Estonian newspapers?

A Yes.

Q What are their names?

A That is "Our Life" and "Free Estonia". That is translation from Estonian.

Q Are these daily papers?

A No, one is twice a week and one is weekly.

Q Are you contributing to these papers?

A In what sense, please?

Q Do you write articles?

A Sometimes, yes.

Q Do you have any type of ownership in these papers?

A No.

Q Do you receive any income from them?

A No.

Q Do you have any stock interest in them?

A No.

Q Are you an officer or director of either one?

A The Canadian newspapers?

Q Yes.

A No.

Q Are you an officer or director of any newspaper?

A No.

Q Do you have any official connection with any

Estonian newspaper anywhere?

A A new paper is coming out in a couple of months.  
It is -- I don't know how to translate "Kurier".

MR. PRETTYMAN: Courier?

THE WITNESS: That is a translation. I am a  
member of the panel of -- How can I tell that?

BY MR. CONNOLLY:

Q Advisers?

A No.

Q Writers?

A Yes. We can describe it so.

Q Where is that paper to be published?

A In New York.

Q It has been published?

A Yes.

Q Is it a daily?

A No.

Q Weekly?

A No, they try to make it weekly, but now it is maybe  
every two or three weeks it is coming out.

Q Who is the owner of the paper?

A There are "aktionär"s or stockholders.

Q Who are the principal officers of the paper?

A I think Mr. Karsna is the principal.

Q Who?

A Mr. Karsna.

Q Do you own any stock in it?

A No.

Q Did you put up any money?

A No, I have no money.

MR. STANFORD: Off the record.

(Whereupon a brief off the record discussion followed.)

BY MR. CONNOLLY:

Q Does this Council for Estonian Liberation engage in any other type of work, attempting to liberate Estonia?

A The Council?

Q Yes. You told me they had taken the position or positions with respect to official government actions?

A Memorandums, yes.

Q They have provided for the publications of leaflets?

A Yes.

Q They have contributed to Radio Free Europe?

A Yes.

Q They have made contributions to Estonian war

veterans in Germany?

A Yes.

Q Anything else?

A Charitable bazaars or whatever you call it, for raising money to contribute to more for these purposes and so on.

Q In connection with the leaflet campaign of a few years ago, did you come to the United States intending to induce people to join with you in sending money to Sweden for the purpose of launching balloons carrying propaganda material?

A Oh, yes, I did.

Q When did you come to the United States for that purpose?

A That was not especially for that purpose, but I laid down my activities, what I intended to do in the future when I get enough funds to be more active in anti-communist activities, as I have been able to do until recently.

Q Well, who did you see in this country? With whom did you discuss in this country the idea of sending propaganda balloons into Estonia from Sweden?

A I don't remember the names, indeed, I am sorry.

Q Well, did you talk about it among a wide circle



of friends?

A No, no.

Q With just a couple of people?

A Yes, I think so.

Q But you don't remember anybody's name?

A No.

Q Where? Was it in New York?

A Maybe in New York.

Q Did you have a couple of sample balloons with you that you were going to use?

A Here? With me?

Q Not now, but when you were here before?

A I ordered from the United States a couple of balloons to try them out and to test them, yes.

Q Did you?

A Maybe some was with me, but I don't remember now.

Q I see. Did you raise any money for this purpose?

A No.

Q Did you tell anyone that you had some friends in Sweden that could launch these balloons?

A Oh, yes, I believe I did so.

Q Who were those friends in Sweden?

A I believe it was one Mr. Ahto Pae, as I mentioned

earlier, who could supply me with honest people who can carry it out, my plan.

Q Who was this man that you just mentioned?

A You asked earlier, do I have friends in Sweden and I answered, yes, I have Mr. Ahto Pae.

Q Is he the person that you are referring to that would help you launch these balloons?

A I am sure he would help.

Q Did you have any arrangements with him?

A Because I couldn't raise money here to launch that.

Q Mr. Heine, let me backtrack a minute --

A Yes.

Q You testified a few minutes ago that you represented to people in this country that you had friends in Sweden who would assist you in launching these propaganda balloons from Sweden into Estonia?

A I am sure they would help there, yes.

Q That is not what you testified to. You testified a few minutes ago that you did represent that you in fact did have friends that would help you?

A I have them, yes.

Q Who are they?

A Mr. Pae.

Q Anybody else?

A No. I don't know. Mr. Pae knows them.

Q What arrangement did you have with Mr. Pae?

A As I recollect, I discussed with him that matter, when I can launch that action, then it is possible to launch from Sweden to Soviet-occupied Estonia these balloons.

Q You mean, he told you it was possible to do it?

A Yes.

Q What arrangement did you have with him to do it?

A Only when I had the money could I launch that project.

Q How did you discuss this matter with Mr. Pae?

A I wrote him, yes.

Q Did you keep a copy of the correspondence?

A I don't think so, that I have. Maybe he has.

Q How about Mr. Pae, has he responded?

A Pardon?

Q Did Mr. Pae respond?

A I think he thought it is a very good idea.

Q Did he say that he would help you?

A When I am ready, yes.

Q Do you have a copy of his letter?

A No, I don't think so.

Q When was this?

A I think -- The exact date I don't remember. I don't remember the exact date.

Q We haven't insisted on the exact dates up until now. Give us the best you can?

A In the sixties, in the beginning of the sixties, for sure, I think.

Q The beginning of the sixties that is a four year period. Can't you --

A I can't recollect, indeed.

Q Where were you when you had this idea?

A Where were I?

Q Yes.

A When I got that idea?

Q Yes.

A In Russia.

Q Was it your idea or some one else's?

A My idea, but it is practised here in the free world very often.

Q What is practised?

A Sending balloons with bibles and nationalistic and anti-communistic books and leaflets over the Iron Curtain via balloons, so that is not originally mine.

Q Now, had you proposed this idea to the Central Committee of the Estonian Council?

A Not officially, I don't think so. Only discussions.

Q Were you trying to raise money in your name or in their name or in whose name were you trying to raise it?

A I didn't try to raise money. If I had money I would try to make that kind of thing.

Q Did you ever seek the help of anyone to start such a project?

A No, I don't think so, only discussed it. It had very good possibilities and was very effective.

Q Did you ever seek money from anyone for such a project?

A No.

Q Did you ever write a letter to anyone other than Mr. Pae about this project?

A I don't recollect, indeed.

Q Now, have you ever as an individual engaged in any other type of anti-Soviet activity since you have been in the West other than a movie, your lectures, sitting down with Mr. Viirlaid writing this book and serve as a member of the Central Committee of the Estonian National Committee?

A I have held speeches on national holidays as guest speaker in many places. I made a movie the book and tried to realize my pet idea of balloons and I wrote some articles in newspapers, anti-communist articles and so on.

Q In Estonian newspapers?

A Yes.

Q Tell me about your service with the Estonian War Veterans?

A I was their 1960 Chairman and belonged several years in that Committee, that organization. One year I was chairman.

Q National Chairman for Canada?

A No, Toronto Branch.

Q Have you held any national office in the organization?

A We have, yes.

Q You have?

A I pronounced myself wrongly. We have in Canada Council of Estonian War Veterans, yes.

Q The organization is nationwide, or dominionwide, is that right?

A Yes.

Q Have you held any office in the national organization?

A No.

Q Just in the Toronto Branch?

A Branch, yes.

Q And you have been Chairman of that branch?

A Yes.

Q For how many years?

A One year.

Q In 1960?

A Yes.

Q Are you still active?

A Yes.

Q By "active", what do you mean?

A I am a member of that council -- no, that organization, and when there are, maybe, money raising funds or festivals for war invalids, we make contributions or lotteries, you know. That is about all. Not much activity there.

Q Do you have a uniform?

A No.

Q Do you have any meetings?

A Oh, yes, we have.

Q Are the meetings devoted to drills or military exercises of any sort?

A Not especially, not in Canada. Here I know in the

States there are, they have.

Q But not in Canada?

A No.

Q Does the Estonian War Veterans organization engage in any anti-Soviet activity?

A Oh, yes.

Q For example?

A When there is to be picketing of the Soviet Embassy or some dignitaries --

Q What?

A Dignitaries, Soviet dignitaries. We have been picketing them. What is anti-Soviet is our job.

Q You have given me two examples: You picket their dignitaries and you picket their embassies?

A Yes.

Q What else?

A We have lectures about communist activities and methods sometimes.

Q Is there any partisan or guerilla activity in Estonia to your knowledge now?

A Oh, yes, there is.

Q Do you attempt to support that guerilla or partisan activity?



A If I could with all my heart.

Q Do the Estonian War Veterans seek to support that partisan activity in Estonia?

A We have no possibility. We are cut off from our homeland.

Q Is there any kind of communication that exists between any member of the Estonian War Veterans and any partisans or guerillas inside of Estonia?

A No, not that I know.

Q How about the Central Committee, any representatives of the Central Committee of the Estonian National Council and any partisan or guerilla band?

A I don't know about that.

Q You don't know anything about it?

A No.

Q Is there any talk about it at all?

A Pardon?

Q Is there any talk in the Councils of either the War Veterans or the National Council concerning helping partisan or guerilla bands inside Soviet-Estonia?

A Maybe there is, but it is impossible. We have no means for that.

Q Do you know of anyone who is able to cross into

Estonia say from Finland or Sweden?

A No, I don't know.

Q Have you told anyone you have any contact in Estonia?

A Contact?

Q Yes.

A No.

Q With whom you can get messages in and out?

A No, I haven't told nothing about that.

Q You haven't any such means?

A No.

Q Did you speak English when you came to Canada?

A Very little.

Q Where did you learn English?

A I might say, you have made a compliment. I don't speak English now as good as I wish, but here in Canada I have tried to learn as much as I can.

Q My question was, did you have any English when you came to Canada and you said "A little"?

A Yes.

Q My question was: Where did you learn that little English?

A My wife speaks very good English.

Q Where is she from?

A She is Estonian, too.

Q Where did she learn English?

A In England.

Q But you married her in Canada.

A She emigrated from England to Canada about the same year as I came here.

Q But when you got to Canada, you already spoke some English. Where did you learn that English?

A In the school in Estonia.

Q I see. Did you know your wife before you got to Canada?

A Oh, yes.

Q Where had you known her?

A In Estonia.

Q Really?

A Yes.

Q What year was this?

A Thirty-nine or so or forty.

Q She had gone to school with you?

A She was in that same school in that same town.

Q Tartu?

A Tartu.

Q Was she approximately your age?

A Younger, a little bit.

Q How much?

A Three years.

Q What is the level of schooling, formal schooling that you have?

A High school level.

Q Did you finish high school?

A No.

Q How far did you go?

A Last grade. Then I was arrested.

Q How old were you at the time?

A Nineteen, I think, nineteen, twenty.

Q This was where? In Tartu?

A In Tartu.

Q Was this in 1940?

A Forty, yes.

Q You lived there with your mother and your father?

A Yes.

Q What employment did your father have?

A He was a factory owner.

Q What did the factory make?

A Pianos.

Q Which grade school did you go to?

A That is very difficult, a very difficult name.

Q What was the name of the school?

A Hugo Treffner Gümnasium it is in Estonian.

Q And from there you went to college?

A College, yes.

Q College in the same town?

A Tartu College, yes.

Q How big a town is Tartu?

A Sixty thousand.

Q I take it a piano factory would be one of the big things in the town, would it not?

A It was the biggest in North Europe.

Q Is there anybody other than your wife in North America that is from your town that you know about?

A Oh, yes, there are.

Q Are there very many?

A Oh, yes, there are.

Q About how many?

A I know about maybe half a hundred, fifty or more.

Q Really? From Tartu?

A Yes.

Q Where are they located mostly?

A Most in New York, some are here in Baltimore, New York, Canada, Toronto.

Q Can you give me the names of a couple of people in Baltimore?

A In Baltimore is Mr. Volli Kunnappu. I think I have his address here (indicating). He knew me as a school-boy and through the year of forty when I was arrested.

I don't have his address here.

Q Will you provide the address?

A Yes, sir.

*7944 Bank St.  
Baltimore 24, Md.*

Q Any other names?

A Mr. Keerd in New York.

Q He knew you when you were a child?

A Yes, he knew me. I have much difficulty with names. I have met so many thousand of people that they all are blurred in one image, but if you want, I can give you some names.

Q Did you ever see your wife from 1940 until you saw her in Canada?

A No, she waited for me twenty years or more.

Q Did you have a childhood romance?

A Almost, yes.

Q You have referred several times to an arrest that

you had in 1940. Recalling my history, the Soviets took over Estonia in the summer of 1940?

A Yes.

Q How was it that you were arrested, how did this come about?

A I began to organize youth movement against -- anti-communist youth movement, and it was maybe my hot-headedness. When they raised the red flag on the city hall, I went with a couple of my young friends to try to pull that down, the red flag and put our Estonian tricolor.

Q What was the Estonian flag?

A Blue, black, white, three colors.

Q Tricolor like the French tricolor?

A No (indicating).

Q Horizontal?

A Horizontal (indicating).

Q Did you succeed in raising the Estonian flag?

A No.

Q You did not?

A No.

Q You were caught first?

A No, we struggled there in these corridors and in the tower there. We were pulled down by these communists

and on that day when we struggled there, the three, four youths that we were, thousands of people gathered around when news got out that we were there, thousands of people gathered around that city hall, and they began to sing our national anthem and these communists were struck with terror and we used that moment and slipped out of there, the crypt, and we were free, but not for long.

They recognized me and hunted me over all. I was hiding already, but then they arrested my parents as -- How is it called? -- hostages, and said that when I don't come out and give myself up, then my parents would die, and then I gave myself up voluntarily and they arrested me then.

Q Had you started to organize this anti-Soviet youth movement because the Soviets took over Estonia?

A No, I can tell you, that was in June of forty.

Q That you started?

A Yes.

Q The Russians had established bases in Estonia?

A That was earlier, yes.

Q But that didn't give rise to any anti-Soviet feeling?

A Oh, feelings were high, but we were -- This time we believed that our leaders would give us the order to



throw them out of the places, and then the simple people knew that when the Soviets take hold of any land, that land perishes, but our leaders, our President and ministers, they asked all over the world for help, from Finland, from Lithuania, from Latvia, from Sweden, England, America, but nobody helped and then they thought it as wiser to give in.

Until 1940, when the old government was overthrown with the help of Soviet tanks, and bajonets, a pro-communist government was installed.

I was in the National Guard as a platoon leader, thirty, forty men. That is called a platoon? Or a squad?

MR. RASKAUSKAS: Platoon.

THE WITNESS: Platoon leader.

BY MR. CONNOLLY:

Q This was the Estonian National Guard?

A Yes, as a schoolboy with a special schoolboy detachment of the National Guard, and we waited many, many weeks for readiness. In the beginning maybe they intended to resist but when we were left alone, then --

Q Well, when the Soviet took over, did they install Estonian communists as the government or did they install Russians?

A Half and half.

Q I see. Did they replace the Estonian flag?

A Oh, yes.

Q With what flag?

A Red.

Q The flag of the Soviet-Union?

A Yes.

Q There was a city hall in Tartu?

A Yes.

Q And you had formed these boys into an anti-Soviet resistance group?

A Yes, that was all nationwide, the movement was nationwide, all over, I was the leader of the youth branch.

Q Just in Tartu or the entire country?

A First in Tartu but then I got command or orders to try to spread that youth movement all over Estonia and I went then all over Estonia and tried to --

Q When was this now? Was this in June of forty?

A June forty, yes.

Q When did the flag incident take place?

A That was July or so.

Q You went into the city hall?

A Yes.

Q But you never got up to the tower or where the flag

was? Was the flag on a pole on the top of the building?

A There is a tower and it is hanging out of the tower (indicating) this way.

Q I see.

A We tried to break the door to the tower down, but --

Q You were stopped?

A Yes.

Q And the populace knew that this was taking place and they gathered around?

A Yes. News got around very fast.

Q And the Soviets were thinking that there was going to be an attack on the city hall?

A Yes.

Q And they became concerned?

A Yes.

Q And you got away?

A Yes.

Q Where did you go?

A I went into hiding right away.

Q Where?

A It is a little town called Elva.

Q And you went to Elva?

A Yes.

Q Did you run or did you ride or walk or what?

A I got there by walking and by train. It is not far away. It is about thirty kilometers, maybe twenty miles or so.

#4

I stayed there only a couple of days and then I went on with my own organization, organizing.

Q When did you take this trip around Estonia trying to organize? Was this before that?

A Before and after.

Q But you had been recognized in the tower, had you?

A Yes.

Q Was there any circular out that you were wanted?

A I don't think so, but they got wind that I was the main person there, and they searched where I lived and waited until I came home and within a week or so I didn't come and then they arrested my parents.

Q How did you know your parents were arrested?

A I got word about that.

Q What did you do?

A I thought it over. I can state here that that was my most difficult thing in my life and then I decided to give myself up to save my parents. They were old already.

Q Then you went back to Tartu?

A I went back to Tartu.

Q Where had you been in the meantime?

A In several towns, Valga and Tallinn and Haapsalu, Viljandi and several towns and --

Q Was there much of a resistance movement?

A Oh, yes.

Q Going at the time?

A Yes.

Q Was there any actual outbreak of hostilities between the Estonians and Russians?

A Yes, there were many events right away and it was a great pity, when the war broke out, the Soviets had deported more than sixty thousand of our most active, our most patriotic people before the war. Then when the war started, that would have been much easier, much more bloodless if these organizations that were formed, and I was part of them, could have acted as were intended, but they deported more than sixty thousand to Siberia.

Q When?

A 1941 in June, before the outbreak of war.

Q How did they make this selection? What criteria did they use?

A Former professional activities, policemen, teachers,

shopowners, factory owners or somebody who had spoken too freely or to openly against. They had a spy network made for that purpose especially so they made a selection and sixty thousand people went.

Q When did you turn yourself in and to whom did you turn yourself in?

A They waited. I went only through the door and I was arrested right away.

Q In your home?

A Yes. My parents were hostages.

Q In their own house?

A Yes.

Q Do you remember what date this was?

A August, 1940.

Q What day?

A That is one of the few things I remember exactly.

The 28th of August.

Q Where were you taken to?

A To N. K. V. D. That is the Russian Secret Police.

Q N. K. V. D.?

A Yes.

Q Where?

A It was -- How can I say? First I was in the

city prison and from there I was transported to that **secret** prison. That is on Kuperjanavi Street.

Q This is in Tartu, right?

A In Tartu.

MR. CONNOLLY: I will pick up there.

(Whereupon at five ten o'clock, p. m., the hearing was suspended till Monday, March the First, 1965 at ten o'clock, a. m.).

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

ERIK HANE,

Plaintiff,

vs.

JIMMY HANE,

Defendant.

Civil Action No. 15038

Washington, D. C.

Monday, March 1, 1965.

Deposition of:

ERIK HANE,

the plaintiff (respondent), called for examination by counsel  
for the defendant, pursuant to recess and agreement of the  
parties, in the offices of Hogan & Hartson, Esquires, 800  
Colorado Building, Northwest, Washington, D. C., 20005,  
beginning at ten o'clock, a.m., before George H. Poe, Jr., a

Stewart & Poe, Inc.

BOND BUILDING, 1404 NEW YORK AVENUE, N. W.  
WASHINGTON, D. C. 20005



Notary Public in and for the District of Columbia, when were  
present on behalf of the respective parties:

For the Plaintiff:

ERNEST C. RASKAUKAS, ESQUIRE  
and  
ROBERT J. STANFORD, ESQUIRE

For the Defendant:

HOGAN & HARTSON, ESQUIRES  
BY: PAUL R. CONNOLLY, ESQUIRE  
and  
E. BARRETT PRETTYMAN, JR., ESQUIRE

- 0 -

I N D E X

EXAMINATION BY:

WITNESS

MR. CONNOLLY MR. PRETTYMAN MR. RASKAUSKAS

ERIK HEINE

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THEREUPON,

EERIK HEINE,

the plaintiff, having been previously sworn by the Notary Public, further testified as follows:

EXAMINATION BY COUNSEL FOR THE DEFENDANT (Resumed)

BY MR. PRETTYMAN:

Q Would you give us all of the names that you have gone under at any time during your career, if you have used any name other Heine?

A When I was in Estonia as an underground fighter and guerrilla, then for my people I was known only as Eerik. No family name. But when we got and made ourselves false passports, then I had a couple of different names. The first passport I had had the name of Priit <sup>Poltसाना</sup> Poltsana. And when I was arrested in 1948 -- for a short time I escaped from the headquarters -- and then I lost that false passport and attained a new one, and the new name was -- excuse me, I have to look. The Russinas, in the Russian propaganda newspaper, mentioned here that name.

(Witness refers to newspaper).

That column here and here (indicating) is about me in this newspaper published in Russian in the Estonian language.

Here it is (indicating). That name was Helmut Helenum.

Q Any other names?

A Then when I was in prison -- that was after 1950-- when I was arrested and when I escaped and was recaptured, then I used the name Eerik Hein, without the "E" on the end.

Q Did you say in Britain?

A No.

Q In what?

A Prison camp.

And that is about all the names that I have used, I think.

Q What is the newspaper that you are looking at?

A That is published in the Soviet Union and distributed here amongst Estonian refugees. That is a propaganda newspaper, and the title reads in translation "Fatherland." And here appears -- I have several articles that appeared in this newspaper about me, which used bad language against me and threatened me, and so on. Here is an article, that column up in here (indicating), is all about me, what I have done and what a murderous fellow I am, and so on.

Q What is the date of that newspaper?

A The 27th of May, 1964.

Q Is that published in Russia or is it published in this country?

A No; in Russia.

Q And is it then mailed to this country?

A Yes; mailed.

Q Do you receive the newspaper directly?

A No, I don't receive that.

Q Where did you receive this copy?

A From where did I get it; I don't know, but many of our people get, receive that, and then they show it to me.

They say, "I have an article about you; read what it tells about you;" and here it is.

Here is another one, too (indicating).

Q When you say what they tell about you, who do you mean?

A The Communists, what they tell about me.

And here is one more, an earlier one, that is February 1958 (indicating).

Q February-what?

A Only February; no date.

Q What is the name of that newspaper?

A That's called "For Return to Fatherland."

Q By whom is that published?

A By the Russians, too.

Q And is that also mailed from Russia?

A Yes.

Q Do your friends receive this newspaper directly from Russia, or do they buy it at a newsstand in Canada and the United States?

A It's not on sale here. They are addressed to persons everywhere, where Estonians are in the Free World.

Q And which of your friends received this newspaper?

A Oh, my! Most of the Estonians receive that, and who gave that to me, I don't remember now.

Q But you have no subscription to any Russian newspaper yourself?

A No.

Q Do most of your friends receive only one newspaper or do they receive several from Russia?

A First of all, earlier it was that (indicating), but that was closed, I think, and now it's the "Fatherland" that comes.

Q So that the record will be clear when you say "that is closed," you are referring to which newspaper?

A "For Return to Homeland." Yes, that is closed; that doesn't appear any more.

Q That newspaper is no longer published?

A No. The one that comes now is the "Fatherland."

Q Is that the successor newspaper?

A Yes, I think so.

Q The one published after the other one?

A Just a moment. It comes from the same source, yes.

Q Which is what?

A That is some society for furthering friendship and cultural ties with Estonians in the Free World. It's not said in the "Free World," you know why they don't say it, but with Estonians outside of Soviet Russia.

Q And what is the address?

A That is Tallin, Valli Tanav 4, Postkast 411.

Q This is published in Estonian?

A I think so. I don't exactly know where it is published.

A I mean the language?

A Oh, yes; in Estonian.

Q Not in Russian?

A No; Estonian.

Q Do you know whether this newspaper is sent all over the world, or is it directed only to Estonians in America and Canada?

A No; all over the world.

Q What is the general purport of this article about you?

MR. STANFORD: Do you understand that?

THE WITNESS: Yes, I understand that.

They call me there a Fascist murderer and so on.

BY MR. PRETTYMAN:

Q Do they tell the story of your life in this article?

A In general terms.

Q And which of your friends gave you this particular copy?

A I don't remember. Indeed, I am sorry.

Q Do you remember any friend that you know of who receives or has received a copy of either of these newspapers?

A Oh, yes. There is one Mr. Rande.

Q Do you have his address?

A I have to look here in this book.

(Witness refers to address book).

I am sorry, I have not that here. I will have to supply it for you.

*Edgar Rande  
10 Wren Court  
Toronto, Ont.*

Q Do you know if he lives in Canada or the United States?

A Canada.

Q Does he live in Toronto?

A Yes; Toronto.

Q Is he a good friend of yours?

A We know each other pretty well.

Q He takes this newspaper regularly?

A He doesn't take it; it's sent to him.

Q Explain that.

You do not subscribe to this newspaper in order to receive it, they send it to you unsolicited?

A Yes; whether we want it or not.

Q And most of your friends receive this newspaper, most of your Estonian friends in Canada?

A Not only my friends, but all Estonians.

Q All Estonians receive it?

A Yes; mostly.

Q You do not receive it?

A No.

Q Why is that? Do you know?

A My phone number is not in the phone book, and mostly they take the addresses and names from the telephone directory.

Q Do you assume from this that the Russians in Estonia do not know where you are?



A No. I am sure they know where I am.

Q Have any threats ever been made on your life, Mr. Heine, since you have come to Canada?

A Yes.

Q What form did those threats take?

A They tried to blow up my car.

Q When did that happen?

A I believe it was back in 1959.

Q When in 1959?

A After I finished my lecture tour in Canada, I think it was 1959. No; it was 1958. Sorry.

Q I don't believe you mentioned that lecture tour yesterday.

Will you tell us a little bit about that?

A Oh, yes; gladly.

When I came here to Canada, then I was asked to tell about my experiences in Soviet Russia and in Estonia as a guerrilla fighter, and they seemed to be so good, my speeches, that I think it was the Estonian Council of Canada who asked me to go on a tour of Canada.

Q Go where?

A All over Canada and hold these speeches and lectures where there are Estonians, and I went.

Q What part of the year was that?

A It was in the autumn. I believe it was in -- now I have to correct something. Now, I remember it was before I married my wife, and I married my wife in '57, so it must have been '57, September and October; yes.

Q At that time you were not employed?

A No.

Q And how long did this tour last?

A Two months.

Q How was that financed?

A I was taken from one city to another where I had my speech. The people there -- I knew very little English -- and so they put me personally on the train, and all the Estonians, you know, received me. And so I went from town to town.

Q Now, at this time, you did not have a film?

A No.

Q You made a lecture?

A Yes.

Q And you recounted your exploits --

A Yes.

Q -- prior to coming to Canada?

A Yes; in Russia, yes.

Q Was there a charge for the lecture?

A All I got there I gave over to the Central Committee of Canada.

Q First, was there a charge for the lecture? Did people have to pay something to get into the lecture?

A Yes, they had.

Q And how much did they have to pay?

A That was up to the local groups, how much their people had to pay, a dollar or two dollars; that was up to them.

Q What was the range?

A One dollar. I am sorry.

Q The average, would you say, was a dollar?

A Yes.

Q What was the range? What was the least that they had to pay?

A Fifty --

Q Fifty cents?

A Yes.

Q And what was the most charged, that was ever made?

A Two dollars.

Q What were the gross receipts from that tour?

A I remember that I brought back to the National Council of Canada about \$200 from that.

Q The \$200 was the amount that you received after all the expenses had been paid?

A Yes.

Q Were you paid for your expenses, train fare and bus fare?

A They took the money out of what they received by these things, and paid the train fare, and then what I had to maybe eat on the train, pocket money, and then some dollars, and that was all.

Q And what did you do with the \$200?

A I gave it to the Central Committee of Canada, the Central Council of Canada.

Q And that is an Estonian Council?

A Yes.

Q You gave the entire \$200?

A Yes.

Q How many cities did that tour encompass?

A Just a moment.

(Witness counts cities to himself).

Q As long as we are naming these, why don't we name them on the record? I didn't realize you remembered the names of those.

A First Toronto; Kitchener; St. Catherine; Hamilton;

Niagara Falls; Montreal; Ottawa; Sudbury; Sault Ste. Marie; Port Arthur; Winnipeg; Edmonton; Calgary; and Vancouver.

Q All of these were Canadian cities?

A Yes.

Q You did not pass into the United States at any time during that tour?

A Not this time, no.

Q As I understand it, you arrived in Canada in April of '57, and you did not receive your first job until December of 1957?

A Yes.

Q During the interim, the only money that you had, I believe you said was \$1,500, which you had received from the Germans?

A Yes.

Q Was this all of the money that you had in your possession from April until December of 1957?

A Yes.

Q You did not borrow during that period?

A No.

Q And you were living with your mother at that time?

A Yes.

Q Did you pay her for living in her place or for supplies or anything of that kind?

A She paid me.

Q How do you mean "she paid you"?

A She gave me food and shelter.

Q She did not actually give you money other than that?

A No.

Q You mentioned Niagara Falls. That would be on the Canadian side?

A Yes.

Q Incidentally, have you recalled the name of the ship overnight that you came over on, Mr. Heine?

A No. I didn't think about that after all; I am sorry.

Q If that comes to you before the end of the deposition, would you volunteer that information?

A For sure.

Q You mentioned that there was an incident where they, I believe you said, tried to blow up your car in Canada?

A Yes.

Q Could you tell us about that, when that occurred, and what happened?

A After that tour one morning -- people had warned me because what I told about the Communists, this was so overwhelming that I began to receive at this time already threatening phone calls, and people warned me that, "You better lock your car and your hood."

Q Who warned you?

A People.

Q Who?

A I don't remember who I talked to.

Q These were Estonian friends?

A Oh, yes; Estonians.

Q Your neighbors?

A Acquaintances, I think so.

Q How many of these phone calls did you get at that time?

A Every week, some.

Q And what would the person say on the other end of the phone?

A "Finish your tour and don't speak anymore about that."

Q And you had already finished your tour at that time?

A Yes.

Q All right. Proceed with this blowing-up incident.

A And then I followed that advice and locked my hood and car every night. It was outdoors, not in a garage. And I found one morning that they had tried to pry up that hood.

(At this point in the taking of the deposition, Ernest C. Raskauskas, Esquire, co-counsel for the plaintiff, entered the deposition room).

MR. PRETTYMAN: Off the record, please.

(Whereupon, a brief off the record discussion between counsel for the plaintiff took place).

MR. PRETTYMAN: Read the last question and response.

(Thereupon, the pending question and answer were read by the Reporter).

BY MR. PRETTYMAN:

Q You don't know who they were?

A No.

Q Someone had tried to pry up the hood of your car?

A Yes. They had tried to put something under my car's hood, and then I thought that they had attempted to put a bomb in my car and blow me up.

Q That was a surmise on your part?



A Yes. They had worked very heavily on that hood.

Q But they couldn't get the hood up?

A No.

Q What kind of car was this?

A It was a Frontenac; a Canadian car.

Q See if you can get this date just as closely as you can.

I take it, it was after your tour in October.

Was it before December 1957?

A No. No, it was before November '59 or so.

Q I thought you said that this occurred right after your Canadian tour in September and October of 1957.

A No; '59, it occurred, the car incident.

Q The car incident occurred in '59?

A Yes.

MR. STANFORD: I think it was the differentiation of the threats and bombs.

BY MR. PRETTYMAN:

Q The threats occurred --

A All the time until when I got my own telephone, which I refused to list that, and then they stopped.

Q When was the first time you put in an unlisted number?

A '63 or so, I think.

Q Did you receive anonymous threats over the telephone about once a week from September and October 1957 until 1963, when you put in an unlisted number?

A Sometimes, yes, every week; and sometimes a month or two was a time lapse; and then again; and then sometimes there were two people with English accents who threatened me; sometimes Estonians; and sometimes the phone would ring in the middle of the night that said nothing only you could hear somebody's breath on the other end.

Q This was a different person each time?

A Sometimes the same, yes; but it was very difficult to say, but I don't think it was all the time the same person.

Q Sometimes it was in English?

A Yes.

Q Sometimes it was in Estonian?

A Yes.

Q Was it ever in Russian?

A No.

Q Was it ever in French?

A No.

Q Was it always a man?

A Yes.

Q Each time the message was approximately the same?

A When they spoke, yes; "Stop your activities," and so on; "We blow you up or destroy you," and so on.

Q Did they threaten your family?

A Oh, yes.

Q And you reported these incidents to the police?

A Yes; the Mounted Police.

Q You reported it each time you received a call?

A No.

Q How many did you report?

A One time only; then the Mounted Police said, "We can't do nothing."

Q Did they tell you at that time to get an unlisted phone?

A Yes; it would be better, that was the best they could suggest.

Q And that was when you got an unlisted phone?

A After that, a half a year about, yes.

Q Where was your wife when you went on your American tour?

A American tour?

Q The tour that you took through the United States with your film?

A At home.

Q She was at your home in Canada?

A Yes.

Q She remained there alone?

A With my mother.

Q Did she live with your mother, or did your mother come and live with her?

A She went to live with my mother.

Q And the two of them were in the house at home?

A Yes.

Q Is your mother's phone listed in the telephone book?

A Not under her name.

Q Whose name is it listed under?

A She is a tenant; she has a rented room.

Q He rents rooms?

A No, she has.

Q She rents from someone else?

A Yes. She has a room rented for herself.

Q She lives in a room which she rents from someone else?

A Yes.

Q How many tenants are there in that building?

A Only she is there.

Q And what is the name of the person from whom she rents the room?

A Mr. Furima. *U. Furima*

Q Her name does not appear in the telephone book?

A No.

Q Only this gentleman's name?

A Yes.

Q Your house was left empty during your American tour, your own house?

A I didn't have, at this time, my own house; I was living as a tenant in a rented room.

Q The address that you gave us the other day, Saturday, was a rented room?

A Yes.

Q From whom did you rent that room?

A That was Mr. Urm.

Q And is that your present address?

A No. I have my own house.

Q I think, to make this clear we better go back again, Mr. Heine.

As I understood it when you first arrived in April of 1957, you lived with your mother?

A Yes.

Q Did you live with her in the room which she rented from this gentleman?

A In this room.

Q Well, I think perhaps the easy way to handle this is just to have you recount for us where you have lived from the time you arrived in 1957 --

A I was with Mr. Urm.

Q Just a minute. When you first arrived on the ship, you went to live with your mother?

A Yes.

Q Where?

A I don't remember that address already.

Q Was that her home or was it a rented room?

A Rented room.

Q Was that the same room at which she lives today?

A No.

Q It was a different room?

A Yes.

Q Was it in Toronto?

A Yes; in Toronto.

Q You don't remember the address?

A No.

Q And you don't remember from whom she rented that room?

A No; indeed, I don't.

Q And did you stay with your mother in that room until your marriage in December of 1957?

A Yes.

Q When you got married in December of 1957, where did you then move with your wife?

A By Mr. Urm.

Q And that was a rented room?

A Yes.

Q An apartment or a room?

A A room.

Q And have you given us that address?

A Yes; that is 29 Easley Park Road.

Q Now, how long did you live in that room?

A Almost five years, I think.

Q And when did you then move to another address?

A November of '64.

Q And, at that time, where did you move?

A 121 Mount Olive Drive, Rexdale.

Q That is a home?

A Yes.

Q You bought that home?

A Yes.

Q You have a mortgage on that home?

A Yes.

Q So those are the only addresses at which you have lived since you came to Canada?

A Yes.

Q Now, going back, your wife, during your American tour, went to live where with your mother?

A As I mentioned, to Mr. Jurima; that was 484 Feathersford Avenue.

Q When had your mother moved to that address?

A I don't remember the exact date or year. I believe it was sometime in '62 or so.

Q That was also a rented room?

A Yes.

Q The room which you were then renting for you and your wife was left vacant while you went on your American tour?

A Yes.

Q Did any harm come to that room while you were gone?

A No.

Q Has your wife ever been harmed?



A No.

Q Have you ever been harmed personally since coming to Canada in 1957?

A No.

Q No one has ever attacked you?

A No.

Q Has any attempt been made on your life since your coming to Canada in 1957?

A I only presume that when somebody tried to pry open my car's hood --

Q You didn't see a bomb?

A No.

Q But other than that occasion no attempt has actually been made on your life?

A No.

Q Did you believe these threats, Mr. Heine?

A I believe the threats are there; I believe the threats; but are they carried out, that is another question.

Q Do you believe that these were Communists who were calling you?

A For sure.

Q You are certain of that?

A I am certain of that.

Q But you believed that these were idle threats?

A No; I didn't believe that. I was all the time on my toes.

Q You were frightened?

A Yes. Not frightened; I am not a person who frightens too easily.

Q Well, I am just trying to get straight whether you thought that these were idle threats or whether you took them seriously?

A Oh, yes; I took them seriously.

Q You thought they really would make an attempt on your life?

A For sure, they would try.

Q And do you still believe that they will try?

A Oh, yes; more than ever, now.

Q Where is your wife staying now?

A 121 --

Q I mean during your trip right now to Washington, is she in your home?

A Yes.

Q And is she there alone?

A Yes.

Q Do you recall the names of the two schoolboys? I

believe you said there were two --

A Yes.

Q -- who were involved with you in the attempt to tear down the Russian flag back in 1940?

A One is here in New York, and I know him. His name is Mr. Jonas.

Q Give us his full name and address if you have.

A I am looking; just a moment.

(Witness refers to his address book).

Karl Jonas; 14-28 Hoyt Avenue South, Long Island City.

Q And who is the other one?

A I don't remember.

Q Have you ever seen him since that incident?

A No.

Q What happened to Mr. Jonas? Was he also captured by the Russians subsequent to the incident?

A Yes.

Q And did he spend time in Russian prison camps?

A No. He escaped after that incident like I did.

Q And was he subsequently captured by the Russians?

A No. He went free; they didn't catch him.

Q How did he get to this country?

A Here?

Q Yes.

A He was in the German Army, and after the capitulation I think in '49 or '50, he immigrated to the United States, I think.

Q He has never been a Russian prisoner?

A No, never.

Q And you have seen him since you have come to this country?

A A couple of times, yes.

Q In New York?

A Yes.

Q Let's go back to the flag incident and to your subsequent surrender to the Russians.

When you went home, I believe you said your parents were under house arrest, so to speak?

A Hostages, yes.

Q And they captured you when you walked into your home; is that correct?

A Yes.

Q And your intent at that time was not to see your parents but to give yourself up?

A Yes.

I remember the name of that interrogator; I will never forget that man.

Q What was his name?

A M-A-R-R-A-Z-I-H-I-A-N (spelling); Marrazihian.

And after a while, they began, you know, began to beat me, and about nine months I spent as prisoner in that headquarters. About 20 or 25 times I was interrogated; sometimes day and night through.

Q When they were interrogating you during that period, what information were they trying to receive from you?

A It came out at last that they wanted to know about my -- how is this called -- counterrevolutionary activities, and when they didn't get that from me then -- I was determined rather to die than to tell about my friends and this organization to which I belonged and for which I was the organizer for Estonian youths.

Q Did they seem to know about your activities where you had gone around Estonia recruiting Estonian youths?

A No; not that part, but they had captured one youth in Tartu.

Q What was his name?

A Sarv.

Q Was that his last name?

A Yes. I don't remember his first name.

And when they saw that I don't give in and don't say nothing, at last they put me face to face with that fellow. He had told them -- he presumably was broken -- and he told about my activities in Tartu, what I have done.

Q In recruiting youths?

A No, not so far. He told that I had made a proposition that we have to keep together and so on, and about my activities in that place called Barlat Platz, where I had distributed Estonian flags, little ribbons, with many, many other schoolboys. He didn't know about my organization, about my travels around Estonia.

Q Had you distributed these flags after the Russians had taken over Estonia?

A Yes.

Q Where had you gotten those flags?

A There were shops still that were, in the very beginning, there were still private shops; and then the owners were there; and then when, you know, first we buy it. But afterwards, these shop owners gave them free.

Q You mean shop owners were allowed to sell these flags after the Russian Occupation?

Q Now, I want you to tell us in detail, Mr. Heine, what happened to you then; the camps that you were taken to; and tell us that in as much detail as you can.

A Very good.

These Russians Secret Police agents waited in my house, and I was arrested, handcuffed, and I was led away to the address of the secret service headquarters in Tartu; that was, I mentioned that earlier, in Capriano Street. And I was booked and searched very thoroughly, and after that -- that was an apartment house, but the Russians used it for their headquarters at this time -- after a couple of hours they began to interrogate me.

Q At the time that they booked you, was a charge laid against you?

A No; nothing.

Q And did they tell you what you were arrested for?

A No; nothing. And then after a couple of hours, they began interrogating me.

Q What were they interrogating you about?

A The first couple of ones, they were pretty harmless; they were who I am and where my home is, and some routine questions; and who my parents are, and where I go to school, and so on; and my life story, and so on.

A They took them from under the counter.

Q Under the counter?

A Yes. Under the counter; secretly they gave them to us.

Q Did Sarv tell the story in front of you, face to face?

A Yes.

Q He had been broken through torture?

A Yes.

Q Presumably the same torture that you were receiving?

A Presumably, yes.

Q But you had refused to talk entirely?

A Yes.

Q You had given only the details of your personal life, such as your name and your family's name?

A Yes. And where I went to school and where I have been, identification card, and so on.

Q Did you ever admit during those nine months that you had taken part in the flag incident?

A Yes, I did.

Q You did admit that?

A Yes.



Q Did you admit during that period that you had made a tour of Estonia?

A No.

Q Did you admit that you had given these flags to fellow students?

A Yes, I did.

Q What else did you admit?

A Only those things, what they could reaffirm.

Q What they could find out on their own?

A Yes; on their own.

Q But they did not know that you had taken part in the flag incident?

A Flag incident?

Q Yes.

A Sarv told them.

Q And so it was subsequent to that that you admitted that you did that?

A Yes.

Q Did you ever give the names of anyone with whom you had worked in doing anti-Russian activities prior to your arrest?

A No.

Q Have you told us all of the information that you

gave the Russians during your nine-month captivity?

A Yes.

Q Let me make sure I have that now?

You gave the details of your own life in terms of your name and where you lived and your family?

A Yes.

Q You told them that you had taken part in the attempt to lower the flag?

A Yes.

Q And you told them that you had sold flags?

A Not sold; given free, distributed.

Q Distributed flags?

A Yes.

Q But you told them nothing else?

A Nothing else.

Q You did not tell them where you had been subsequent to the flag incident and before your arrest?

A No.

Q But they wanted more information from you?

A Yes.

Q And they continued to torture you?

A Yes.

Q Tell us about that; during the nine-month period,

how often did that take place and what form did it take?

A They interrogated me about 25 times, and they suspected that I was mixed up in the underground activities, but as I said earlier I was ready to die before I said anything.

And these torture methods --

Q What?

A Methods of torture, the beatings, that was the simplest and easiest, but the most agonizing was that they used electricity, especially on the sexual organs.

And two times I was taken out from my prison and led to a nearby forest where they had a secret execution place, and two times they, you know, made a mock killing or mock shooting. They put me on the edge of that grave, and then, you know, first time only they had rifles on their shoulders, and I waited for when it comes, and nothing comes; the second time they even fired, but not at me, but to subdue me so that I tell about these activities they suspected I was a part of.

Q How many people took part in these tortures?

A These beatings, about three or four every time.

Q Three or four men?

A Yes.

Q Were they the same men each time?

A Not all the time, but Marrazihian was one of them. That is one name that I am certain of. And Marrazihian was all the time present.

Q What was his rank?

A Major.

Q And he was in what, NKVD?

A Yes. He titled himself "Interrogator of Most Important Things." Major Marrazihian.

Q I take it by that, that you were considered a very important captured person?

A Yes, I think so.

Q They thought that you had taken part in important guerrilla activities?

A Not guerrilla. At this time there were only a few. But the underground, which was made up of university students, high school students, and civilians, that was very, very widespread all over Estonia at this time, and they thought maybe they have caught a link so that they can go on with it.

Q As a matter of fact, they had caught a link, hadn't they?

A Yes.

Q You were precisely what they thought you were?

A Yes.

Q Or what they suspected you were?

A Yes.

Q You had, in fact, taken part in the activities that they suspected you of?

A Yes.

Q Did you stay in a cell by yourself during this period?

A I was about three months in one single cell, alone.

Q And where was that? Let's take it from the beginning now, Mr. Heine?

A Yes.

Q You were captured on what day of August?

A I remember it was the 28th of August.

Q 1940?

A Yes.

Q Now, during the nine-month period, let's follow through as best we can the various places that you stayed.

A Yes.

Q Go ahead, sir.

A I stayed for a couple of days there in headquarters, and then they took me to a prison, the Tartu prison.

Q The town prison?

A Yes.

Q Were you in a cell by yourself there?

A Yes.

Q Were there other captured Estonians in other cells around you?

A Oh, yes; there were. And when they --

Q Were they accused of the same thing that you were accused of?

A I don't know for what they were there because these cells were soundproof.

Q You couldn't see them?

A No. When I was taken again before my torturers -- they brought me in the beginning every time to that headquarters and back again by car; and then after two or three months, they began sometimes to interrogate me in that same prison that I went to.

Q The town prison?

A Yes; the town prison.

Q They did not take you back to headquarters; they did it on the spot?

A Yes; sometimes there. And it lasted about until February or March '41, that interrogation.

Q How many times a week did you say this would take?

A It was about 25 times all together.

Q During the nine months?

A Yes. And then these activities ceased; I was not troubled, and --

Q Beginning when?

A I think it was the end of February; and then I was taken to Tallin, the capital of Estonia.

Q With other prisoners?

A No; alone.

Q By yourself?

A Yes; handcuffed. And in Tallin I was about a month alone again.

Q In what place?

A At the city prison hall in Tallin.

Q Were you in a cell by yourself?

A Yes.

Q And were there other prisoners in the cells around you?

A No. I can mention that after three months alone in that cell, I was put in a cell in Tartu where there were other prisoners, too.

Q Let's go back then. I take it that we are back in Tartu now?

A Yes.

Q After being alone for how many months?

A Three months.

Q You were then put in a cell with other prisoners?

A Yes.

Q How many other prisoners?

A About 14 or 18.

Q What were they accused of?

A Capitalists, spies, underground fighters and former officers, former policemen, kulaks.

Q Would you say that these people basically were accused of the same thing that you were, or were they potential troublemakers?

A You can't tell they were troublemakers; they were very fine people. Only the Soviet --

Q I mean in the Soviet eyes, of course.

A Oh, yes; very, very serious troublemakers.

Q What I am trying to get at, did you know from talking to them whether they were charged principally with specific acts as you were in terms of underground activities, or were they locked up because they were potential troublemakers to the Russians?

A They were charged with being, for example, kulaks,



landowners.

MR. STANFORD: We would object to this insofar as it would be speculation on his part in many of these cases, but go ahead and answer as best as you can.

BY MR. PRETTYMAN:

Q You did talk to these people when you were in the same cell?

A Yes.

Q And you discussed your common experiences and why you were there?

A I didn't tell them that I am in the underground; that is most foolish thing to do among prisoners.

Q Did they tell you anything about themselves?

A Not much; but only that they are anti-Communists, and they --

Q They did tell you that?

A Oh, yes. We told that to everybody.

Q And you told them you were an anti-Communist?

A Yes. I told them, "I have distributed these ribbons and I was the boy who wanted to tear down the flag," and so on. There was a younger fellow than I -- I don't remember his name already -- who was a schoolboy as I am, and was caught distributing leaflets, anti-Communist leaflets, and

that boy was in that cell.

Q Do you remember the names of any of the people who were in the cell with you?

A Oh, yes. A very old man was Mr. Prouli; and that young boy I remember now was Pant.

In this book some names are changed; the real names aren't there.

Mr. Pant was there; and then there was one called, a Tsarist Russian officer, Belouissov

Q These are real names that you are giving us now?

A Yes.

Q Did you use any real names in the book?

A When I knew that they are dead, then I used the real names.

Q That was my next question:

Do you know what happened subsequently to these 14 prisoners?

A Mostly were shot.

Q And were they shot just after they were in the cell with you, or was this many years later?

A Sometimes they were called out with their things, and then we knew that this was the last trip, and most of them were shot when the Russians fled the country -- that

town -- they were shot, and some were put alive in -- these prisoners they shot, they were thrown into an empty -- how it is called?

MR. RASKAUSKAS: Grave?

THE WITNESS: No.

MR. RASKAUSKAS: Pit?

THE WITNESS: In the prison courtyard there was an empty --

BY MR. PRETTYMAN:

Q Well?

A Well, yes. Some were alive.

Q This would have been in June 1941 when the Russians left?

A Yes.

Q How do you know that?

A I read about that and I remembered these names.

Q Where did you read that?

A It was a publication in Estonian, "Estonian Nation and State in the Second World War."

Q And you recognized these names as being the names of the people with whom you had been in prison?

A Some, yes.

Q Some of these persons were taken out and shot right

while you were there?

A Yes. We thought so.

Q And others were taken out and killed later?

A Yes.

Q Are any of those 14 in this country or in Canada that you know of?

A No.

Q Have you ever seen any of those 14 since you came to Canada in 1957?

A No.

Q Do you know of any who are alive?

A No.

Q Do you know that they are all dead?

A I don't know for sure.

Q Would you say that most of them are now dead?

A Yes, I suppose so.

Q You don't know of any that were repatriated to Germany or who escaped?

A No.

Q All right. I believe we are now in Tallin.

A Yes.

Q Tell us about your imprisonment there.

A I was there about one month in a single chamber,

and one day, I believe it was in April when --

Q 1941?

A I believe that, yes.

I don't really exactly know. I was brought in a chamber where there were very many prisoners, about 20 or so, and there I felt a little bit funny because some of them spoke German although they all understood Estonian.

Q Did you speak German at that time?

A Oh, yes; I spoke German.

Q You had learned that in school?

A Yes.

Q Did you know Russian by that time?

A A little bit, yes.

Q And English?

A No, English not much; Russian more.

And there I was told that these prisoners were awaiting extradition from the Soviet Union to Nazi Germany. I wouldn't believe or didn't understand why I was there because I am Estonian, and I have said that to these interrogators all the time, "I am Estonian, and why am I here?"

Q You had not made application or anything prior to that?

A No. I did nothing about an application.

Q This was a complete surprise to you?

A Yes; a complete surprise. And I was even stubborn in this case.

A week, maybe later, we were led before a commission of Russian officers, and everyone was asked his name and nationality and date of birth and so on, and all of them, I believe now, asked for our nationality, and they answered that we were Germans, but I refused to say that I am a German, although others suggested to me that I have to do that because that's the only way to get out from there. I told them, "I am Estonian;" but that didn't make any difference to them. They sent me out anyway.

Q How long were you in the cell with the 14 people in Tartu?

A 14 people in Tartu. Three months I was alone; four months, I think.

Q Four months with those 14 people?

A Yes.

Q And then you transferred to Tallin?

A Yes.

Q And from then on you were alone until the time you were brought in the room with the 20 people?

A Yes.

Q You were in a cell by yourself during that period?

A Yes.

Q Were you interrogated at all between the end of February when I believe you said the torture stopped, and in April when you were brought into this room?

A No.

Q You were left completely alone?

A Completely alone.

Q No one asked any questions?

A No one asked any questions. No one even spoke to me.

Q Did you receive permanent injuries during this period?

A I was -- my teeth, front teeth, were beaten out, and I believe I can say that I hope that it stays here in the record, I was severely damaged on the reproduction organs; the sexual organ is there, but the reproduction is gone due to these beatings.

Q You mean that you cannot have children?

A Yes.

Q Any other permanent injuries?

A Not this time.

Q Were you given false teeth at that time?

A No.

Q From the end of February until you were released in April, you had no teeth?

A No. Four front teeth were beaten out this time.

Q Just the four front teeth?

A Yes.

Q The other teeth were there?

A The other teeth were there.

Q When were the four front teeth replaced for the first time?

A They were never replaced.

Q I mean replaced in the sense of false teeth?

A No; never replaced.

Q You look as if you have some teeth there no.

A No; only here (indicating lower teeth).

Q Well, when you say "front teeth," you don't mean the ones right here in front?

A No; upper front (indicating no upper teeth).

Q I am sorry, but you do look as if you have upper front teeth. I see; I am sorry.

Was any explanation made to you at any time as to why the beatings stopped, why the torture stopped?

A No; nothing.



Q Was any explanation made to you as to why you were being repatriated to Germany?

A No.

Q From the end of February until April when you were repatriated, did you see any of the three men who had tortured you again?

A No.

Q What part of April were you actually released? What date were you actually released?

A I believe the end of April sometime. I don't remember the exact time.

Q Tell us precisely what happened. You went before this court?

A Commission, tribunal.

Q And you refused to say that you were German?

A Yes.

Q But they told you that you were going to be sent to Germany?

A No. They don't tell me nothing, only they wrote down what I said, and that was all.

Q Then, what happened?

A Then we were brought back to that cell again.

Q All 20 of you?

A We were sent three or four to the tribunal, and then brought to the cell; and others went till all were through.

Q And were you then put in a cell by yourself?

A The same cell, yes.

Q Then, what happened?

A Then, next morning we were taken out, given back our belongings --what were left -- and I believe it was when we were put on a bus and --

Q How many of you were put on the bus?

A 20 people, what were there, all these people.

And we rode to the railway station, and there was a train waiting.

Q A special train?

A Yes; a special train for repatriates; and there was, I believe it was a Soviet official there, and he gave us over to the leader of that train, the leader of the repatriates.

Q Was that a German train or Russian train?

A Russian train, but all these passengers were being repatriated to Germany.

Q All of these what?

A These passengers in that train.

Q I understand that.

How many cars were on that train?

A About 20 or more.

Q For only 20 people?

A No. These were all full. That train was waiting for us until we arrived, and after we arrived about one hour then it began to go.

Q Were the people in the bus with you all Estonians?

A You have to understand that by that time true Estonians could repatriate to Germany. For example, somebody with a German wife, or had attended German school --

Q His parents were German?

A -- or his parents were German, or one grandparent was German, or one of the great-grandparents was German; only if he could show that he had something to do with Germany; school or confirmation, or mother or grandfather, or great-grandfather.

Q They had to prove there was some German link?

A Yes.

Q You got on this train with these 20 others?

A Yes.

Q Were you all in one car?

A Yes. In that train?

Q Yes.

A We were distributed all over. We were free then, completely free.

Q There were no guards?

A No. That train was international; no Russian cars.

Q As of that moment you were a free man?

A Yes.

Q Was the train run by Russians or by Germans?

A By Russians.

Q The conductor --

A Yes.

Q They didn't ask for tickets?

A No.

Q And you stayed there how long before the train left?

A About one hour.

Q I suppose you were very happy?

A Oh, my; you can say that.

Q Were any of your friends on this train?

A No. Which friends do you mean?

Q Did you know anybody on the train?

A No. Only these 20 fellow prisoners.

Q And you had not known them before you were left in

the room with them?

A No.

Q Did you see anyone that you knew personally between the time that you left the 14 people in the cell in Tartu and the time that you got on the train in Tallin?

A No. I didn't see no one.

Q No one that you knew?

A No.

Q No acquaintances?

A No.

Q No friends?

A No.

Q Tell us about the train trip.

A We went then through Estonia, Latvia and Lithuania, and --

Q Did you stop anywhere in Estonia?

A No. I believe we went right through. The train was full; that was the beginning point or the starting point then to --

Q When was the first stop?

A I believe they changed these locomotives and so on.

Q Anywhere in Estonia?

A I don't remember that. I was too happy to be getting

out.

Q When it stopped, were you prevented from getting off?

A Oh, yes. We were forbidden to go out. These guys or leaders, these officials, or whoever they were, they were with the Germans, they directed that when we go out we would be captured right away again.

Q There were German leaders on the train?

A Officials, yes.

Q Were they in uniform?

A No.

Q When the train stopped, were there guards outside the train?

A Yes.

Q With rifles?

A Oh, yes.

Q What happened then?

A Then --

Q Let me interrupt you.

Did you discuss on the train with your fellow repatriates their various experiences and why they were being repatriated?

A Then I got the first information that my parents,

trying to get me out of my prison --

Q Where did you learn that?

A On that train.

Q From whom?

A One of the officials told me about that.

Q A German official?

A Yes.

Q What did he tell you?

A That my parents had tried to get me out of prison, and then they had made application to repatriate to Germany because one of my grandparents had been a German on my mother's side.

Q Was your German grandmother alive at that time?

A No.

Q She had died sometime before?

A Yes.

Q When you left Tallin and the Russians put you on that train, were any threats made against you at that time?

A No.

Q You didn't have to sign anything?

A No.

Q You made no promises?

A No.

Q They said nothing to you?

A Nothing.

Q You arrived where in Germany on the train?

A It was in Lithuania. The town I don't remember anymore. The Russians had occupied Lithuania as well as Estonia, and there --

Q Let me show you this map and it might refresh your recollection.

MR. PRETTYMAN: At this point I suggest we take a brief recess.

MR. RASKAUSKAS: All right.

(Whereupon, by agreement among counsel, a brief recess of the deposition was taken).

- 0 -



MR. PRETTYMAN: Back on the record.

BY MR. PRETTYMAN:

Q Mr. Heine, tell us now about the arrival of the train in Lithuania, where it arrived, and what happened then.

A I believe it was a town named Tilzit.

Q Continue.

A And there awaited us uniformed German officials, and we were given over to the German authorities by the Russians.

Q Now, I thought you said there were no Russians on the train.

A There, in Tilzit. Before we crossed the border, we stopped there, and all people had to go out of the train and there was a station, probably Tilzit Station, and we were checked once more by the Russians, and I believe we were given food. We crossed the state line into Germany where German authorities awaited us.

Q Where did you stop in Germany?

A First, right away, in Tilzit.

Q I thought you said that was Lithuania.

A Half and Half; Russian and German. And there we stayed a couple of hours.

Q You were now under German control?

A Oh, yes under German control. We were told that the prisoners, these 20 men, that we were exchanged against some German Communists and Jews out of Russia.

Q You were exchanged for some men who were being sent from Germany to Russia?

A Yes; German Communists and Jews.

Q You didn't see those people?

A No. We were told only that.

Q Were you told it was a man-to-man exchange?

A That we don't know.

Q You were told that by the Germans?

A Yes.

Q Then, what happened?

A After some time, maybe a half a day or so, we separated.

Q Were you still on the train?

A No; we were in a great big hall where we ate, and we were given refreshments and so on.

Q This was what town?

A In Tilzit; and then we were separated. In effect, everyone was given an address or a camp where we had to go, and were furnished with tickets, and --

Q Were you under guard?

A No.

Q You were free to go --

A Yes.

Q -- as you pleased?

A No; only we had to go to that camp.

Q Where you were told to go?

A Yes. In that camp where I was taken about ten other people, too, from the train.

Q Were you put on a bus or a car and taken there?

A No; by train we went there.

Q You were put on a new train?

A Yes.

Q Were you guarded?

A No.

Q You were with how many people?

A About ten from that train, yes.

Q You were given instructions to go to a certain place?

A A guide was with us.

Q A guide?

A A girl, I think, as I remember.

Q As you remember?

A Yes.

Q A German girl?

A Yes.

Q In uniform?

A Yes.

Q A guide's uniform?

A No; a German Nazi organization.

Q She was the only German with you?

A Yes.

Q Where did you go?

A It's very, very hard to remember that first camp.

I don't remember the name of that camp, but I stayed in that camp about two weeks, and there I began to search for my parents.

Q Tell me about that camp.

A It was an old castle, old German castle.

Q What town was this?

A There was no town; it was in the countryside.

Q How far from Tilzit?

A We rode by train about over one day, I think.

Q You don't know where it was in Germany?

A In Southern Germany, that I know for sure.

Q Did you have to stay inside the camp?

A No; we were free.

Q You were free to go?

A Yes.

Q What papers did you have with you at this time?

A I think none.

Q No papers at all?

A No.

Q No identification?

A No.

Q Were you allowed to take anything with you from  
Estonia?

A No.

Q No money?

A No. What we had on, that was all; and half of  
that was stolen by the Russians when I was arrested.

Q How much? Did you have a suitcase?

A No.

Q You had your suit?

A Yes. In summer I was arrested, and then it was  
very cold. I was without an overcoat.

Q No overcoat?

A And bareheaded and nothing for my head.

Q No overcoat?

A No.

Q Now, tell us about this camp. How many people were in the camp?

A There were about 100 or so.

Q Were they people like yourself who had come from Estonia, or had they come from many places?

A From many places.

Q Had they all been exchanged by the Russians?

A No. They came by legal ways.

Q Who were they? What kind of camp was this?

A They kept us there to fix us up. There were health examinations and they fed us very good there.

Q What was the purpose of this? What did you think you were doing there at that time?

A I think others awaited for time to get placed in work places somewhere. Places for work.

Q Were there guards at this camp?

A No.

Q You could leave at will?

A We had, or at least I had, no identification card. I could walk around all day, but I was, I think I was told not to get lost.

Q And how well could you speak German at this time?

A A little better than I speak English now.

Q What did they tell you you were doing there, you yourself?

A They told me that they are searching for my parents, and when they found them in another camp, then I was brought out from that camp with a guide again -- that was a woman -- that was not far from there.

Now, we can identify that place. My parents were in a camp, Schwabish Hall, that was called.

Q They were in a camp similar to the one you were in?

A Yes; similar.

Q What had they been doing since they had left Russia and moved to Germany?

A They lived there all the time.

Q In this camp?

A Yes.

Q Did they have any identification?

A Not at this time.

Q When you say "not at this time," you mean they had no identification since leaving Russia until the time that you met them?

A Yes.

MR. STANFORD: You mean by that, identification

papers?

THE WITNESS: No.

BY MR. PRETTYMAN:

Q They had no identification papers?

A They had their old Estonian passports, what they had in Estonia. I believe they were given by the organization who brought them over some cards for identification; yes, I think, but not passports, no.

Q Not passports?

A No.

Q These were simply cards giving their names?

A Their names, first names and then surnames.

Q And that was all?

A Yes.

Q And they had no other identification or papers?

A Only old ones from Estonia.

Q What did they show?

A The old Estonian passports.

Q I thought you said they had no passports?

A Not German ones, no.

Q They had Estonian passports?

A Yes.

Q Those were the only papers they had?



A Yes.

Q How had they lived since going from Russia to Germany? They had been fed and cared for in this camp?

A Yes.

Q By the Germans?

A Yes.

Q They did not have a job?

A No.

Q And your father was still living at this time?

A Yes.

Q The Germans found your parents?

A Yes.

Q They had to investigate to find where they were?

A Yes.

Q And how long did that take before they finally located them?

A About two weeks.

Q And they finally located your parents?

A Yes.

Q And so they then reunited you with your parents?

A Yes.

Q And how did they take you to them?

A By train again.

Q With others?

A No; by myself, alone.

Q Were you guarded?

A No.

Q You were free?

A Yes.

Q And you arrived at the camp and were reunited with your parents?

A Yes.

Q Did they tell you about what they had been doing while they were in Germany?

A While they were in Germany?

Q Yes.

A They were waiting for me to get out.

Q How had they heard that you were going to get out?

A The German officials had told them, "Don't worry, we'll get your boy out."

Q They had been trying to get you out?

A Because they tried to get me out. They repatriated me for that reason.

Q The Germans tried to get you out?

A When I was arrested this time, my parents were set free by the Russians.

Q Because you were arrested?

A Yes.

Q You were exchanged for them, more or less?

A Yes; and by this time that was, to make it clear, the real Germans had been repatriated already in 1939, and that was the so-called after repatriation where very many Estonians could flee the country, too. And that organization who arranged these things was still there, and then my mother -- that was her idea -- went to that organization and told about my arrest, and asked for advice by these Germans there how could they get me out. And it was possible when they repatriate to Germany that they can get me exchanged or out of prison. And, these officials were very, very -- as my mother told me, that's not my own words -- that they were very, very impressed about the flag incident and the distribution of these small flags and they told me parents that, "We have to get that boy out at all possible costs."

Q Why did you think they wanted to get you out? Did they think you would be useful to them?

A No. As I told you, my mother said that they were very impressed with my spirit, what I showed during these days.

Q They thought that you were very anti-Communist?

A Yes.

Q Proceed.

Now, you have met with your parents and talked with them?

A Yes.

Q What happened then?

A Then we lived there some time.

Q Now, let's get that date straight.

What was the date, as close as you can remember, that you were actually reunited with your parents?

A In May, I think. My mother knows that date.

Q 1941?

A Yes, I think so. Then we lived there a couple of months.

Q In the camp where they had been?

A Yes; and who wanted to go to work could go, and those that didn't want to go, they could stay in that camp. I worked a couple of days, but most of the time I relaxed, and then I went sightseeing around that Schwabish Hall and the won.

Q Were you well-cared for?

A Oh, very well.

Q Well-fed?

A Oh, yes.

Q Well-housed?

A Yes. And then one time they began to give passports to these people who were in the camp; some got German passports; some didn't get German passports. And that is probably the cause was, why there is a difference, that the Nazis had some department who decided who is enough German and who is not in order to get the passport. It was that like one was too little, only one grandparent on my mother's side, so we were given alien passports, in translation German alien passports.

Q You were given that?

A Yes.

Q Were you one of those whose German linkage was somewhat suspect?

A No. I told them I am an Estonian, not a German.

Q I believe you were splitting your group into two parts: Those who were truly German, and therefore who got regular passports --

A Yes.

Q -- and those whose links with Germany were much more suspect?

A And who didn't want them; and they were given alien passports.

Q And you were one of those who said you were really not German, that you were Estonian?

A Yes.

Q And, therefore, they gave you only an alien passport?

A Yes.

Q What did that show?

A First name, date of birth, birthplace. I have that at home. I don't really remember what is in there.

Q Where did you go from there?

A Then, I believe it was -- when did the Second World War break out with Russia?

MR. STANFORD: Mr. Prettyman wants your best recollection.

THE WITNESS: It was in autumn.

BY MR. PRETTYMAN:

Q June 22nd?

A Yes.

Q 1941?

A Yes. And, maybe a couple of weeks after that Estonians who lived in Germany had earlier formed an organization for the liberation of Estonia; they had their old consul general there in Berlin, and then these representatives.

Q Representatives?

A Representatives of that organization began to travel around these camps where Estonians -- some Estonians and some Germans -- and we were, you know, called to join the Estonian units, army units were formed there in Germany, and I volunteered right away and others there, too, all Estonians, 100 per cent, men, even boys, 15-year-old boys and 60-year-old men.

Q How old were you?

A I was 21, I know.

Q You were in good physical health, would you say?

A I recuperated there very well, yes. I was a little bit thin after that ordeal, but overall not bad.

Q You were not crippled so that you couldn't fight?

A No.

Q Do you recall the weight that you got back after this recuperation?

A No; that I don't remember. I only remember that weight when I was second or third time in Russian prison camps, that weight I remember.

Q At this point you were fit for military service, is what I am trying to say.

A Oh, yes.

Q You could run and jump and carry arms?

A Yes.

Q And your sight was good?

A Yes.

Q Did you know this representative who came to see you in the camp?

A It was, I believe, Major Sodla; he was an Estonian major, and one Estonian Lieutenant Partel.

Q And had you known them before?

A Only one of them.

Q Which one?

A Lieutenant Partel.

Q You had known him in Tartu?

A Yes.

Q Had he been a boyhood friend?

A No. He was one of my commanders in the National Guard, let's say.

Q How had he gotten out?

A With a fictitious marriage with a German wife.

Q Had he been a prisoner of the Russians?

A No.

Q Now, you immediately joined up with this anti-Russian Estonian outfit?



A Yes.

Q What happened then? That was several weeks after June 22nd?

A Yes.

Q All right. What happened then?

A Then we were sent to Frankfurt/am/Oder to a training camp -- it was not the army, it was for the army units, though.

Q How many went with you?

A We were there from that camp about 30 or 40 men.

Q They were all Estonians?

A Yes.

Q Did you know any of them?

A I think so, yes; there was a whole family; son, father, three sons, and a son-in-law of that family were there. Rammo was the name; and their first name, Tamm.

Q Was there anyone there whom you have seen since?

A Yes.

Q In this country?

A Yes.

Q Who?

A Mr. Rammo lives in Ontario, Canada.

Q Do you have his address?

A No; this is in Hamilton, but I don't know the exact address.

Oh, yes; I think one lives here, too, in the United States. I will look if I have that name here; Rammo, Runne; 2120 North Clivedon, Chicago, 14, Illinois.

Q Tell us what happened after you got into the camp with these men? How long did you train?

A About three months, I believe.

Q Was the training conducted by Germans?

A Yes.

Q Was there a name for this outfit?

A Afterwards, when the training was ended or stopped, then we were named.

Q What was the name?

A *Qst/and*  
Ausland Battalion.

Q This was made up entirely of Estonians?

A Entirely. There was a very interesting incident, by the way. One day we had to stand in military order there, and then there was a major who suggested, "Who wants to be a German, take three steps forward," and about half of these, not so much, but one-third of these who were on that formation there, stepped three steps forward.

Q What did they mean by the question?

A Who wants to be a German.

Q What did he mean by that?

A They were given German passports, and then handled as real Germans. We were Estonians.

Q I am still not clear. The people who stepped forward were actually Estonians, but were then given a chance to become German citizens?

A Yes.

Q Merely by stepping forward, they were given German passports?

A Yes.

Q And thereafter treated as Germans?

A Yes.

Q Did you step forward?

A No.

Q You wanted to remain Estonian?

A Yes.

Q What happened to those who stepped forward?

A From there a new formation was made, second battalion; first and second.

Q They were put in another group?

A Yes.

Q And you remained with the Estonian group?

A Yes.

Q You remained with the Ausland group?

A Yes.

Q What happened to that group?

A We were sent -- there is something more I have to say. The Germans told us that we who were engaged in war activities in Estonia, they wished to send us to Estonia to free our country, but instead they lied to us; they sent us to the Ukraine.

Q Were you interrogated by the Germans at any time after your arrival in Germany and before the formation of this group?

A I don't recollect that.

Q You were asked no questions?

A No.

Q Where were you sent in the Ukraine?

A First to the town of Kiev; and there our battalion had to guard the electricity factory.

Q What month was this, Mr. Heine?

A I believe it was in November. And after that --

Q November of 1941?

A Yes. -- that group was split, and some were sent to the swamps, Prippet, near Kiev to fight the partisans there.

Q What partisans?

A The Russian Communist partisans.

Q Were you sent with that group?

A Yes. I was sent with that group.

Q What was the name of that group?

A Ausland Battalion.

Q What was the name of the group that was split off from it?

A Ausland Battalion.

Q The Ausland Battalion was split into two groups?

A They weren't split; but one group was taken out and sent to the Prippet swamps.

Q And you were in that group?

A Yes.

Q Where did the other group go?

A In Kiev; they stayed in Kiev.

Q Tell us what happened after you were moved?

A We went there and went on patrols and guard duty.

Q What were you guarding? What was the situation there at the time that you were sent there?

A That region was infested with these Communist guerrillas, and we had to guard a little town there; I believe it was Cherkassy.

Q This was an area that was under German control, but was infiltrated by Russians?

A Yes.

Q What did you do there?

A We stayed there about -- I stayed there about until February '42.

Q During that time, did you actually engage in fighting?

A Very little.

Q How much?

A A couple of times only.

Q And did you see Russians during that period?

A Only very far away.

Q Did you do any shooting?

A We did.

Q Did you kill any Russians?

A Not when I was there.

Q There were no personal engagements, so to speak?

A No.

Q It was a long-range affair?

A Yes.

Q What happened in February 1942?

A In February I was sent back to Kiev.

Q With the rest of the Ausland Battalion?

A No; only myself.

Q Why?

A Because the Government of Germany occupied Estonia, the Estonian Government; how can I say it? They, the Free German Collaborators' Government, because they have demanded me back from the Ausland Battalion.

Q The Germans were now in control of Estonia?

A Yes.

Q And who was it that asked for you back?

A The Government of Estonia.

Q The German Government of Estonia?

A The Estonian Government. Estonia was occupied, but the Germans had formed a puppet government of Estonians.

Q It was the puppet government of Estonians under German control that asked for you back?

A Yes.

Q Why did they ask for you back?

A Because I had been in Communist prisons; I had suffered a lot by beatings and tortures; and probably they knew that I am very, very fierce anti-Communist, and they wanted to use my hate and knowledge of the Communists.

Q How did you get back?

A By train.

Q And you were the only one brought back in that manner?

A No. There were 12 other people.

Q Who were similarly asked for?

A Yes.

Q Do you remember their names?

A I am sorry, but I don't remember.

Q Have you ever seen any of them since?

A No; I think not.

Q Were they all Estonians?

A Yes.

Q And had any of them been in Russian camps?

A No.

Q You were the only one who had been a Russian captive?

A Yes.

Q But they were asked for because presumably they were anti-Russian?

A Yes.

Q In February of 1942, then you arrived back in --

A Tallinn.

Q I thought you said you were sent back to Kiev.



A Yes; from the Prippet Swamp; and from Kiev I got orders to go there.

Q You had no money during this time, or did you?

A Regular soldier's pay, which is not much.

Q And you were sent back to Tallinn?

A Yes.

Q What happened when you arrived?

A I worked then in the Estonian Political Police.

Q Were you in uniform at this time?

A No.

Q Did the Ausland Battalion have a uniform?

A Yes; they had one and I did, too. But in the new job I didn't have a uniform.

Q Did the Ausland Battalion have a German uniform?

A Yes.

Q With the Nazi insignia?

A Oh, yes.

Q Were you an officer in that battalion?

A No.

Q Did you have to undergo any particular German training to take part in the Ausland unit?

A We were three months in that camp in Frankfurt/am/Oder.

Q Was there --

MR. STANFORD: I think there was a misunderstanding of your question. He interpreted that as training by Germans, did you mean something else?

You mean German indoctrination?

BY MR. PRETTYMAN:

Q As part of your training, was there any kind of Nazi indoctrination?

A As usual, yes.

Q And what type of indoctrination was that?

A Nazi doctrine such as one leader, one nation, and so on. Maybe you have heard of that.

Q Yes, I have.

Did you have to swear allegiance to the Fuhrer?

A Oh, yes. I think so.

Q And you did that?

A Yes.

Q When you left for Kiev, were you still in your Austland Battalion uniform?

A Yes.

Q When you were sent from Kiev back to Tallinn, were you still in your uniform?

A Yes.

Q So, you arrived in Tallin in this Nazi uniform?

A Yes.

Q Then you joined what you called the Political Police?

A Yes.

Q Tell us what that was?

A There were two police forces; one German, and one Estonian; and I worked for the Tallin Estonian Political Police Forces. First I was there --

Q Which group were you?

A The Estonian Political Police. First I was there as Assistant Second Class.

Q And did you continue to wear your uniform during that period?

A No.

Q You were now in civilian clothes?

A Yes.

Q Were you reunited with old friends in Tallinn?

A Almost all were gone, I think.

Q Almost all were what?

A The Russians had deported them or arrested them; very few old chums I met in Estonia after that.

Q Who were the ones that you did meet?

A I was in Tallinn about two weeks, and then I went to visit my hometown, Tartu, and there I met my old chums, some of them.

Q Name some of them that you met.

A I believe one was a girl named Paltzev.

Q Had you known her before?

A Oh, yes; we were in the same class.

Q What was her first name?

A I don't remember now.

Q What did she do for a living, do you remember?

A Oh, yes. That I have to explain:

She was still in school, finishing high school. I was arrested; I couldn't finish. I believe she was still in school, yes; but that diploma for finishing high school, I was given anyway.

Q When you arrived back?

A Yes, anyway, although I had not been able to finish because I was arrested. And then, there was another girl, Nita Krimm, and I am trying to remember the name of the boy who was there, too.

*Amkre*  
Oh, yes, Heino Amkra. There were some more, but I don't remember any more of these names.

Q You went to Tartu just for a visit?

A Yes.

Q And then how long did you stay in Tartu?

A A couple of days only.

Q These were the only friends you recall offhand that you met there?

A Yes.

Q Did you then go back to Tallinn?

A Yes.

Q And how long did you stay there?

A I stayed in Tallimabout -- that was February -- August, I believe, about that time.

Q What were your duties?

A Interrogation.

Q Of whom?

A Communists.

Q Communist soldiers who had been captured?

A Communist agents; not soldiers; Communist, the real meaning of Communist is party members, infiltrators, agents.

Q Were these Russians or Estonians?

A Russians and Estonians.

Q Had the Russians been captured by the Germans?

A By the Germans; by the Estonians.

Q And who were the Estonians that you interrogated?

A One of them is why I was sentenced to death.

Q You say you were sentenced to death?

A I was sentenced to death because of him. He was a minister. What was his name? That was a man named <sup>Neeme Ruus</sup> ~~Raidros~~, Minister of Welfare, I think he was.

Q Tell us about him.

A He was left behind to organize an underground movement against Nazis and Estonian Nationalists.

Q He was an Estonian by birth?

A Yes.

Q But he had defected to the Communist side?

A Yes.

Q There was no question about that?

A No; there was no question about that. And there were others, many others.

Q Tell us about your interrogation of him?

A He broke down completely and told all what he knew and we used him as a source of information for other Communists, and so on.

Q Were you the chief interrogator?

A No.

Q You were one of several?

A Yes.

Q How did you break him down?

A I didn't break him down; he was broken down already by the Germans.

Q How did they break him down?

A Exactly like the Communists tried to do to me.

Q Torture?

A Oh, yes.

Q But you didn't take part in that?

A No.

Q Did you ever take part in any torture?

A No.

Q You just asked questions?

A Yes. I was learning the job. They didn't allow me.

Q What other collaborators did you interrogate?

A There were very many. I don't remember. There were so many, about 50 or 60. I don't remember in that time in Tallinn; I don't remember.

Q Between February and August of 1942, you personally interrogated at least, what would you say, 50?

A Yes.

Q Russian collaborators?

A Russian collaborators, yes.

Q During none of that time did you engage in torture, did you say?

A No.

Q You interrogated people who had already been broken down by others?

A Not all, but most of the top people they were already broken down, yes.

Q In other words, the process was to break them down through torture, and then give them to you for interrogation?

A For information so that they tell about all things they know, and other Communists, and so forth.

Q How long would you interrogate them at a time?

A Six hours or all night, like me.

Q And was it like your interrogation?

A Like they did to me; all night or all day, or so.

Q Did you do this alone?

A Mostly, yes.

Q What did you do with the information you received?

A There is a great difference between German and Russian interrogation systems. The Russians write down the question, what have you done this time, and you have to answer, and they write it down, I was there and there. By the



Germans -- it was in Estonian, too -- that you had to be talking answering by leading questions, and so to catch overall picture by cross-examination, and so on; and that question and that question, and when you have done that, when you thought that you have got what you wanted from them, you wrote it down in a paper form.

Q A summary?

A Yes; summary.

Q It was not transcribed at the time? Was it taken down as you interrogated as it's being taken down here by a reporter?

A We were not so modern at this time.

MR. STANFORD: You indicated that you have an appointment at 12:30, and we want to speak with you privately for a few minutes prior to that time.

MR. PRETTYMAN: Why don't we resume at two o'clock?

MR. STANFORD: All right.

(Whereupon, by agreement among counsel, the taking of the deposition was recessed at approximately 12:30 o'clock, p.m., to be resumed at two o'clock, p. m.).

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AFTERNOON SESSION

MR. PRETTYMAN: Back on the record.

BY MR. PRETTYMAN:

Q Mr. Heine, amongst the twenty person who went with you to be repatriated to Germany, weren't there any that you got to know then or whom you had previously known and who you have seen since?

A I got acquainted with all of them, but only one person is now here in the free world.

Q What is his name?

A Mr. Kattemaa, Eric Kattemaa.

Q Had you known him before that trip?

A No.

Q You met him for the first time on that trip?

A In the chamber, yes.

Q Where have you seen him since?

A In Portland, Oregon.

Q What is his address, do you know?

A Yes, I think I have it.

(Whereupon the witness examined his briefcase.)

THE WITNESS: 1731 Northeast 37th Avenue, Portland,  
Oregon.

BY MR. PRETTYMAN:

Q Under what circumstances have you seen him since?

A When I went through the States with my movie and went to Portland I met him.

Q Did you look him up on that occasion?

A He looked me up.

Q He remembered you?

A Yes.

Q In that connection?

A Yes.

Q Had he been a Russian prisoner?

A Only that time when we met in that chamber there.

Q How long had he been a prisoner?

A Several months, I think, before that. He was arrested for anti-communist activities.

Q Were his parents German?

A No, I think not.

Q What was his German link?

A I think through his wife he got out.

Q His wife was German?

A I think so. I don't know exactly.

Q Have you corresponded with him since you saw him in Portland?

A I have written once. I have written him once.

Q Has he replied?

A Oh, yes, yes.

Q Do you have his letters?

A Oh, yes.

Q What have you written him about?

A I asked him to verify that I had been there with him in the prison, because of Raus' slander.

Q You wrote him for the purpose of this suit?

A Yes.

Q And he has replied, giving you this information?

A Yes.

Q Verifying that?

A Yes.

Q What was Mr. Kattemaa's story in regard to the repatriation from Russia?

A As well as I remember, he was Chairman of the Humane Society in Estonia prior to his arrest and probably had made anti-communist remarks and as a result he was arrested.

Q Was he German or Estonian?

A Estonian.

Q With a German wife?

A I think so.

Q Did he tell you his story of his imprisonment by the Russians?

A He did, but I don't remember exactly how it was.

Q You don't remember the details of it?

A No.

Q Do you know whether he was tortured?

A Oh, yes, that I know.

MR. STANFORD: This based upon hearsay, of course. That is the understanding.

MR. PRETTYMAN: Yes.

BY MR. PRETTYMAN:

Q Have you ever been arrested since coming to Canada or the United States?

A No, never.

Q In either country?

A No.

Q You have never been convicted of a crime in either country?

A No.

Q Have you been involved in any lawsuit other than this one in Canada or the United States?

A No.

Q You never have been?

A No.

Q Since coming to Canada in 1957 have you been to any

country other than the United States?

A No.

Q Before lunch, Mr. Heine, you had taken us up, I believe, to August of 1942?

A Yes.

Q At which time you were in the police force.  
What name did you give that police force?

A Estonian Political Police.

Q Now, continue with your story past August, 1942?

A In August I was transferred to another town in  
Estonia as assistant first class.

Q What town?

A Haapsalu.

Q Where is that?

A On the west coast of Estonia.

Q Why were you transferred?

A Because that town was short of staff for the political police and I was transferred there.

Q It was what?

A Short of staff.

Q Were you given a promotion?

A Yes.

Q To what grade?

A First grade.

Q You were a Lieutenant first grade?

A Assistant first grade.

Q How many superiors did you have in that town in the political police?

A Superiors?

Q People in rank over you?

A Oh, the lowest is assistant third grade, then comes second and then first and then there are about half a dozen (in dicating) going higher.

Q Was the work you performed there the same as you had performed in Tallinn?

A Yes, the same.

Q Did you continue to interrogate Russian collaborators?

A Yes.

Q During this period was the work any different from what you had done before? Other than the fact, of course, that you were interrogating other people?

A No, not different.

Q Did the change in grade make any difference in your work?

A No.

Q How long did you stay in Haapsalu?

A One month. End of August I believe.

Q How many people would you approximate you interrogated during that period?

A Maybe ten, no more.

Q Was torture involved in your work during that period?

A No.

Q You simply asked questions?

A Yes.

Q Were you able to get information from these people that was anti-Russian and that could be used against other persons?

A Oh, yes.

Q Did you turn that information over to your superiors?

A Yes.

Q Was that information acted upon to your knowledge? Were other people rounded up as a result of your interrogation?

A I believe so, yes.

Q What happened to the people you interrogated afterwards? Were any of them shot?



A I don't know about that.

Q You don't know what happened to any of them?

A No. Only I know about one man.

Q Who was that?

A Ruus, Minister of Soviet Republic.

Q What happened to him?

A He was shot.

Q Immediately after your interrogation?

A No, he was there already over a year or more and he was shot. I was already in the army, long afterwards.

MR. STANFORD: This is based upon understanding as well as his own personal knowledge, I presume.

BY MR. PRETTYMAN:

Q How did you hear he was shot?

A Afterwards I met some people from that police force and they told me that he has been shot.

Q Where did you meet them?

A In Poland, I think.

Q When was that?

A May I proceed? From August I came to Poland, too.

Q I would like for you to recall as best you can the date at this time?

A About '44 I think it was.

Q When in '44?

A I could tell right away. Yes, in March '44.

Q Where in Poland?

A In training camp for German Army, called Debica.

Q Is that the name of the town or the name of the camp?

A The name of the camp.

Q Where was it near?

A In Poland, somewhere, maybe Krakow, near Krakow.

(Whereupon a map was handed the witness who examined it.)

THE WITNESS: Here it is (indicating). I will mark it with a pencil. (Spelling) D-e-b-i-c-a.

BY MR. PRETTYMAN:

Q Who told you that?

A Some former comrades from that political police.

Q Do you recall their names?

A No, I don't recall their names.

Q Were they Estonians?

A Oh, yes.

Q What happened at the end of August, 1942?

A I volunteered to go to the army.

Q What army?

A There was founded an Estonian unit in the German Army, called Estonian Legion and I volunteered to go there.

Q How did you volunteer?

A Because --

Q Not "why". How did you volunteer?

A There were these -- There were in Tallinn these points where you could apply for admission.

Q Were they seeking volunteers or was this your idea?

A At this time the Estonian Legion was formed, they sought for volunteers.

Q Tell us what happened?

A I was admitted and sent in a week, maybe, to that camp, Debica.

Q Your tour as a member of the political police had ended?

A Yes.

Q And you then became part of an army unit?

A Yes.

Q What rank?

A I was a corporal.

Q How long was the training at this camp?

A That was in August, August or September we went

there and we had training to '43 in March.

Q You trained for over six months?

A Yes.

Q What uniform did you wear as a member of that unit?

A German. It was called Waffen S.S. uniform.

Q Tell us about the Waffen S. S.?

A I think I am right when I say that there were two kinds of Waffen S. S. , one was clearly and simply an army unit and another S. S. was political, political S. S.

Q Which was "Waffen"?

A Waffen was Army.

Q What does "S. S." stand for?

A Schutz Staffel. How can I translate? Protect, protective unit or something like that.

Q When you say this was an army unit, you mean by that that this was or that Waffen S. S. was for fighting purposes?

A Oh, yes.

Q Fighting on foreign territory?

A Fighting on the front, in the line of fire on fronts, yes.

Q It was in no way connected with any political purpose?

A No.

Q It was in no way connected with any internal purpose?

A No.

Q What was the difference between the Waffen S. S. and any other front line unit?

A We were better armed, better fed and we go into the most difficult positions every time.

Q Is it fair to say that the Waffen S. S. was the select few, so to speak, in the sense of the best Germans, the potentially best German fighters?

A The elite.

Q Elite?

A Yes.

Q The elite?

A Yes.

Q What kind of a qualification test did you have to take to get in?

A In the beginning it was only that you had blue eyes and blond hair and one seventy-two high and physically pretty good and so on, that was the first.

Q You don't mean that anybody could get into this outfit?

A At the beginning, yes.

Q Your answer, then is that anybody could get into this unit in the beginning?

A Not get into it in the beginning.

Q Well, I want you to explain to me now what qualifications you had to have to get into the Waffen S. S.?

A Blue eyes, blond hair, height over one seventy-two, physically strong.

Q Those were the only qualifications that you had to have?

A Yes.

Q To get into the Waffen S. S.?

A Yes.

Q What further qualifications came later?

A They lowered these qualifications.

Q Explain to me, Mr. Heine, why Waffen S. S. was considered the elite if anyone could get into it?

A Because they were put in these places where every one had to be a good soldier to withstand these difficulties and roughings of the war.

Q How did they know if you were a good soldier?

A I don't know.

MR. STANFORD: I object to that. That is not

within his knowledge. He could only have an opinion on that. Off the record.

(Whereupon a brief off the record discussion followed.)

BY MR. PRETTYMAN:

Q Would you translate "waffen"?

A Waffen means arms.

Q Did you have to be a member of the Nazi party to become a member of the Waffen S. S.?

A No.

Q Once you got into a Waffen S. S. unit, could you remain, regardless of your qualifications or did you then have to take further tests to stay in?

A No, no further tests.

Q Am I fair in summarizing what you said, that anybody merely by volunteering could get into Waffen S. S. and stay there for the duration of the war?

A Oh, yes.

Q What is the name of the political S. S., the other one besides the Waffen?

A That is called S. D., I think. Sicherheits Dienst. That is security --

THE REPORTER: Service.

THE WITNESS: Security Service.

BY MR. PRETTYMAN:

Q Did that require any qualifications to get into?

A I think so, yes.

Q What were they?

A I don't know.

Q Do you know whether you qualified?

A I don't know that.

Q Were there any ways in which the members of the  
Waffen S. S. were identified? Were any physical marks put  
on them, for example?

A In the beginning -- Not in the beginning but in  
the later years, yes.

Q When did that begin?

A I think before I went there in the Waffen S. S.

Q Do you have that identifying mark?

A Yes.

Q Where is that mark?

A Here (indicating) under my left arm.

Q What is it?

A Blood type.

Q How was it put on?

A Tattooed.



Q How long were you in the Waffen S. S.?

A Until I was captured.

Q Which was when?

A In August '44.

Q Did you change rank from the time you went into the Waffen S. S. till you were captured?

A Yes.

Q Tell us when you received these ranks?

A In the year '34 -- '44, 1934 -- No, '43, I am sorry, '43, after completing our training in that camp, Debica, we were sent to Ukraine.

Q What time of the year was that?

A It was in March.

Q Sent where?

A Ukraine.

Q Where in the Ukraine?

A I don't really completely recall, but it was near a town called Debica -- No, no, no, sorry, it was Isjum.

Q Did you stay in the Polish camp from September of '42 until March of '43?

A Yes.

Q Were you trained in one camp?

A Yes.

Q Did your rank remain the same during that period?

A Yes.

Q What was the name of your particular unit?

A That unit -- that camp -- There was one battalion of Estonians, about one thousand two hundred men.

Q That was made up entirely of Estonians?

A Yes.

Q What was the name of that battalion?

A That battalion was named afterwards when we left that camp, it was named Battalion Narva.

Q And who was your commanding officer?

A This time there was Colonel Eberhardt.

Q Was he your commanding officer during the entire time that you were in the Polish camp?

A Yes.

Q During that time did you engage in campaigns or was this solely training?

A In that camp?

Q Yes.

A Only training.

Q Give us the names of any men in that battalion whom you know now?

MR. STANFORD: By that do you mean whom he knows

now presently exist, is that correct, or the names as he recalls them at that time?

BY MR. PRETTYMAN:

Q How many names do you now know from that battalion? How many names would you know, would you be able to list from that entire battalion?

A Very few, I think.

Q Very few?

A Yes.

Q How many?

A Two, three or four.

Q Why don't you give us those names?

A I don't recollect --

Q Give me the names of anybody that you remember from that battalion?

A There is one Mr. Karmo.

Q What is his first name?

A I don't remember that.

Q Where does he live now, do you know?

A In New York.

Q Have you ever corresponded with him?

A No.

Q Have you ever seen him?

A Yes.

Q When?

A When I was in Lakewood.

Q Lakewood, New Jersey?

A Yes.

Q What year was that?

A What year was it? I believe '59 or '60.

Q What was his rank in that battalion?

A Soldier. Soldier, I think, plain soldier, no rank.

Q Had you known him in Estonia before?

A No.

Q Give us the other names that you remember?

A There is much difficulty because I knew them by the first names and family names I have very, very great difficulty to remember. I met several people from that battalion here in the States and I don't really remember these names. I am sorry, I don't remember.

Q You don't remember any other names?

A Yes.

Q Who was your closest friend in that battalion?

A They were all pretty fine boys. The closest?

Q You didn't have any close friends?

A No.

Q What was your battalion commander's first name?

A I don't know. Only the family name I remember now.

Q Whatever happened to him, do you know?

A He was killed.

Q When?

A By Isjum.

Q By what?

A By that place, at that place, Isjum.

Q By whom?

A By the Russians.

Q In a battle?

A Yes.

Q And when did that occur?

A I wasn't there this time and I don't recollect  
rightly that date when that battle took place. In June, I  
think.

Q June of which year?

A June of '43.

Q You were no longer a member of that battalion at  
that time?

A I was a member but I was on another place.

Q All right, then, going back to March of '43, I

believe you said you were sent to Ukraine?

A Yes.

Q First of all, during this period until March, did you say your rank had not changed or had it changed?

A At Debica?

Q Yes.

A No, no change.

Q And your rank was what at that time?

A Corporal.

Q A corporal?

A Yes.

Q When you were sent to the Ukraine, did you get a new rank?

A No.

Q Now, what happened after March?

A We stayed in that vicinity I mentioned, near that town of Isjum a couple of months and then I believe it was in May, '43 when I was sent to -- back to Germany.

Q Where?

A A town called Bad Toltz.

Q This was in May of 1943, right?

A Yes, I think it was.

Q Are you pretty sure of that?

A Because it was before the battle where our battalion gained world fame.

Q What was that battle?

A The battle of Isjum.

Q During the period March to May, what did you do?

A We stood in readiness.

Q You just stayed in a camp?

A Not in a camp but we stayed as a reserve in readiness for every occasion.

Q Do you remember what company you were in or what squad?

A I was in the Fourth Company. That was heavy machine guns and -- What is "Granat Werfer"?

THE REPORTER: Grenade thrower.

THE WITNESS: Grenade throwers.

BY MR. PRETTYMAN:

Q How many men were sent to Bad Toltz?

A From that battalion I think seven.

Q You were one of them?

A Yes.

Q Why were you picked to go to Bad Toltz?

A Because I think I was the most dedicated soldier there.

Q You were the most dedicated soldier?

A Yes.

Q And what happened at Bad Toltz?

A There was German officers' school, academy. Like here at Annapolis in the United States or --

Q West Point?

A West Point, yes.

Q Who were the seven that you went with, do you remember their names?

A I don't remember, by family names.

Q Have you ever seen any of them since then?

A Not from that unit, no.

Q What were their first names?

A Jan and Karl and Endel.

Q Do you know any other first names at this time?

A No. I knew the other names, too, but I have forgotten since, I believe.

Q Have you ever seen any of those seven since?

A No.

Q Do you know what happened to them?

A No, I don't know.

Q Now, at Bad Toltz, how long did you stay in Bad Toltz?



A Until February '44.

Q Tell us about your training there?

A Truthfully, I went to the training of non-commissioned officers and then after three months, we were promoted to non-commissioned officers and then we began another course for officers and when we finished that, then we were given the rank of -- I don't know how to translate it, "Ober-Junker". What it corresponds with I don't know. Before lieutenant.

Q Your battalion had gone on to various battles?

A Yes.

Q After you had left it?

A Yes.

Q How many men were in your unit at Bad Toltz?

A There were people from many nations of Europe.

Q This was not just Estonians?

A No, no, there were French and Norwegians, Swedes, Hollandians, Belgians, Czechs, Estonians, Latvians, all over Europe.

Q How many Estonians were there?

A At the beginning about one hundred and eighty.

Q Then, at the end?

A At the end there were left only about thirty-five.

Q What had happened to the rest of them?

A They had dropped out.

Q You mean, flunked out?

A No, dropped out because they didn't --

Q They didn't make the grade?

A They didn't make all these physical and tactical and these tries and exams.

Q It was a very strenuous course?

A Very strenuous, yes.

Q A very difficult course?

A Very difficult.

Q What was the percentage of dropouts, overall?

A About a hundred and eighty and only thirty-five left.

Q That was the Estonians, but in the whole camp?

A About the same, yes.

Q Who was your closest friend at Bad Toltz?

A We were very busy and we couldn't -- Of course, we were all mixed, not only Estonians in one class. All nations mixed, but I remember there one Olaf Tanmark.

Q Olaf what?

A <sup>Tanmark</sup>  
Olaf Tanmark.

#2

Q Tell me everything you know about Mr. Tanmark?

A He was at that academy, too.

Q Tell me everything you know about him?

A He was in the same school as I did in Estonia, in the gymnasium I mentioned earlier, Hugo Treffner Gmnasium and I believe he repatriated to Germany, too, but legally.

Q Was he captured by the Russians first?

A No, no.

Q Was he ever a prisoner of the Russians?

A Yes.

Q When?

A After the War ended. From '45, I think.

Q He was never a prisoner of the Russians before 1945?

A No.

Q Did you see him between the time you went to school with him at Tartu and Bad Toltz?

A No.

Q Have you seen him since?

A Yes.

Q When is the next time you saw him after you finished the S. S. school at Bad Toltz?

A It was in Germany.

Q Where?

A I don't know the name of the town, but when I came out from Russia, when I visited him where he lived this time.

Q Where was that? Do you remember the city?

A Near Stuttgart some place.

Q And what year was that?

A That was '56 when I came out.

Q Do you remember what part of the year that was?

A In winter it was, yes.

Q When was the next time you saw him?

A He visited his friends here in Canada some time maybe in '61 or '62 and then I met him here in Canada.

Q Toronto?

A Yes.

Q He was visiting?

A Yes.

Q What happened to him after that?

A He is resident of the United States.

Q Where?

A Lake Geneva.

Q Has he lived in Lake Geneva since he visited Toronto?

A Yes, I think so.

Q Have you corresponded with him?

A I visited him when I was on my movie tour.

Q Once?

A Yes.

Q Have you ever corresponded with him?

A He has, yes, written me letters.

Q Have you written him?

A Yes.

Q How often do you correspond with him?

A Two, three times a year, maybe.

Q Did you ever telephone him?

A What?

Q Did you ever telephone him?

A No.

Q Or he you?

A I don't remember that.

Q You don't remember that he has ever telephoned you?

A No, I don't remember.

Q All right, going back to Bad Toltz, did the officers that were instructing you remain from year to year?

A No.

Q You had a new set of instructors every year?

A They changed them more often, maybe six months.

Then the new came in.

Q You mean, you had a new set of instructors every six months?

A About so, yes.

Q You had a complete turnover of instructors?

A Not complete. Some was changed out and then new ones came in.

Q Give us the name of any instructor you remember?

A I don't really recollect these names now.

Q Give me the name of anyone other than Mr. Tanmark at Bad Toltz?

A There was a fellow called Harry Ring.

Q Have you seen him since then?

A No.

Q What happened to him, do you know?

A He is in Australia now.

Q Have you corresponded with him?

A No.

Q How do you know he is in Australia?

A I have heard. From Tanmark, I think.

Q All right, anyone else?

A Yes, there is one Fred Prentzel, 6 Dana Avenue, Albany 8, New York.

Q Have you seen him since Bad Toltz?

A When I made my movie trip, yes.

Q Did you look him up?

A Yes, I overnighted by him.

Q Have you corresponded with him?

A A couple of times, yes.

Q Now, listen to this carefully, Mr. Heine.

Is there anyone that you know of that was at Bad Toltz at or about the time that you were there, but whom you don't remember as having been there that you since have discovered was there?

A I think Mr. Prentzel is of that sort.

Q I thought you said you remembered him from there?

A I remembered him but he didn't remember me, but when we talked about that, then he remembered it.

Q He did not remember you?

A Yes.

Q Did Mr. Tanmark remember you?

A Oh, yes.

Q Is he the only one you have seen since Bad Toltz who does remember you?

A Oh, yes.

Q Make sure you understand that: Is Mr. Tanmark the only one?

A No, no, there are others.

Q Who are they?

A I don't remember these names.

Q You mean people that have come up to you and told you that they remembered you at Bad Toltz?

A Yes.

Q Where has that happened?

A In New York, all over -- maybe -- Where was it? I think in Chicago was one guy, yes. That is about all.

Q How many would you say, offhand remembered you at Bad Toltz?

A About half a dozen.

Q And you don't remember any of their names?

A No names.

Q Or any other details about them?

A No.

Q As part of your course at Bad Toltz, was there in addition to your arms training any indoctrination course?

A Yes, there was.

Q What did that consist of?

A National Socialistic doctrine.

Q Did you wear the Nazi uniform at this time?

A No.

Q What uniform did you wear?

A Waffen S. S.

Q And that was not a Nazi uniform?



A That was Waffen S. S. uniform, Nazi political party, yes.

Q Did it have a Swastika on it?

A They have, yes.

Q Did you again have to swear allegiance to The Führer as part of this course?

A I believe, yes, at the end of the course, yes.

Q And give the Nazi salute?

A Oh, yes, that was the regular greeting in the Waffen S. S.

Q Did you have any social life during this period, did you do any dating?

A No.

Q Did you know any girls at all there at this time?

A No.

Q What rank did you graduate as from the school?

A I don't know what you call it. Not a non-commissioned officer and not yet an officer, in between.

Q A sergeant?

A More.

MR. STANFORD: A warrant officer?

BY MR. PRETTYMAN:

Q A second lieutenant?

A That maybe, yes.

Q That would be the first commissioned rank?

A Yes, we had the right of an officer but we didn't  
-- They didn't call us like the officers, lieutenant --

Q But you had all the prerequisites, the rights?

A Yes.

Q Did you get a pin or something to wear indicating  
your rank?

A Not at this stage. Only our cap was with officer's  
(indicating) whatever it is called.

Q Did you wear sidearms at this time?

A Oh, yes.

Q What happened to you then, after you graduated?  
What did the graduation consist of?

A We -- all Estonians who finished that school we  
didn't wait for official graduation. We went all momenta-  
rily to front.

Q Was there any official graduation?

A Yes, after that, after we left, a couple of weeks  
after we left. We left earlier.

Q You mean, before that?

A Yes.

Q Now, at the official graduation was some kind of a

document given to show that you had graduated?

A No, that was ceremonial.

Q Only ceremonial?

A Yes. When we left they gave us documents and the "Soldbuch" or paybook or how it is called.

Q Were you with a group of Estonians who left before the graduation?

A Yes.

Q How many left with you?

A This time only two.

Q Who were they?

A I and a very good fellow of mine. What is his name? Harry Nidre.

Q Just you two?

A Yes.

Q I thought you said that all the Estonians left together?

A A couple of days afterwards the others left, too.

Q You two were the first to leave?

A Yes.

Q Where did you go?

A Right to the first line.

Q Where?

A By Narva.

Q What date was this?

A We arrived there about the end of February, beginning of March.

Q Of what year?

A '44.

Q You were at Bad Tolts then from May of '43 through February of '44?

A Yes.

Q And you arrived at Narva when?

A About February or March '44.

Q You don't remember when?

A Not exactly.

Q Where was the front at that point?

A By the river of Narva.

Q Tell us what happened? What happened then?

A We made reports in regimental office by Narva and I and my companion, Niidre, were installed in that First battalion of the Forty-Fifth Regiment of the Estonian Legion.

I as -- first as an ordnance officer -- I don't know how that translation --

Q What was Mr. Niidre's first name?

A Harry.

Q Have you ever seen him since?

A No.

Q Where is he now?

A He was killed.

Q When?

A I think it was in the year 1946 or '47.

Q Where did you hear that?

A Rumors spread around, by Estonian guerillas and they had heard about one guy named Niidre, a very powerful, very big boy, who was killed, trying to rescue his group from Russian troops and they succeeded breaking through, but some women who were in there, too, accidentally stayed behind, and he went through the lines to bring them out and was then killed.

Q Had you known him in Estonia?

A He visited the same school that I did, the Hugo Treffner Gümnasium.

Q You attended the same school?

A Yes, we attended the same school.

Q What did he look like?

A Oh, he was a very -- six foot seven or eight -- very powerfully built and very strong and very intelligent.

Q He was your good friend?

A We were comrades in arms, yes.

Q He was with you during the entire period at Bad  
Toltz?

A Yes.

Q From the beginning?

A Yes.

Q Had he been with you before that?

A No.

Q But you were friends during the whole period at  
Bad Toltz?

A We knew each other, yes.

Q All right, now you arrived at Narva with --

A With Harry Niidre, yes, and I was installed as  
ordnance officer. How would that translate? I don't know.

Q Installed in what?

A As ordnance officer of a battalion that I belonged  
to, the staff of the battalion commander.

Q What was the name of that battalion?

A First Battalion of the regiment, of the Forty-  
Fifth Regiment, First Battalion.

Q Was that also the Waffen S. S.?

A That was the Estonian Division, the Twentieth  
Estonian Division belonged to Waffen S. S., yes.

Q What was your job there as finance officer? What did you do?

MR. STANFORD: He said "ordnance officer".

BY MR. PRETTYMAN:

Q As ordnance officer, I am sorry?

A I had to care for ammunition and arms and maps and the stuff that the function needed and telephone lines and what would be needed for the efficient running of the battalion.

Q How near the front were you?

A A couple of hundred yards.

Q How many men did you have under you this time?

#3 How many men did you have under your command at this time?

A I belonged to the staff; I directly had no men under my command.

Q I assume that since you were now back in Narva, you were making acquaintance with old friends in Estonia?

A I didn't meet old friends.

Q You didn't come across anybody at this time that you had known in Estonia?

A I don't recollect that now, indeed. Maybe there were some.

Q Mr. Niidre, what job did he take there?

A Platoon leader.

Q So you continued your acquaintanceship with him during this period?

A Yes.

Q How long did you remain as ordnance officer at Narva?

A About the time of the battle of Auvere.

Q What happened there?

A That --

Q When was that, incidentally?

A It was, I believe, in June.

Q What happened then?

A Here is the river Narva (indicating), and the Russians had achieved a break-in about like so (indicating), and Auvere lies here (indicating) and as was known, they tried to break through here (indicating), because here was the only road through swamps, paved road, and they would use armored cars, tanks, and to break through and encircle.

All these divisions were fighting by Narva, by the Narva front. We were taken out here by Narva and thrown --

Q You say "we". Do you mean your battalion?

A Our battalion.



Q During the period from March to June, you were not engaged in any fighting?

A Oh, yes, all the time.

Q You were?

A All the time. We liquidated here by Narva break-ins and attacks over that river. Sometimes it was very heavy battle, sometimes it was quiet. Artillery and fire was very heavy sometimes.

Q Did you as an ordnance officer participate in actual firing?

A Oh, yes.

Q Did you kill any Russians during this period?

A Sure.

Q How many would you say?

MR. STANFORD: I object, because this is speculative. If you want him to give you his opinion --

BY MR. PRETTYMAN:

Q Do you have any opinion?

A You know, sir, we were not that kind of people that kept records like the Russians about their killings. I may say, maybe a hundred, maybe two hundred, who knows.

Q This was during the period from March to June you killed one hundred or two hundred?

A Yes.

Q All right, what <sup>were</sup> arms/you carrying during this time as an ordnance officer?

A Sidearms.

Q No rifle?

A No.

Q Did you kill these two hundred Russians with a pistol?

A No, when I was on the front line, when the attack came, I took over with a machine gun or anti-aircraft guns and pulled the trigger.

Q Was there hand to hand fighting?

A Very, very seldom .

Q Well, was there hand to hand fighting at all?

A There was in the beginning when he had to liquidate these (indicating), these break-throughs.

Q How often did you participate in hand to hand fighting?

A A couple.

Q What happened during those times?

A We drove the Russians out.

Q I mean, what happened to you personally in these hand to hand encounters?

A I came out very, very readily.

Q You killed your opponent each time?

A Yes.

Q With a knife or --

A With knife, with machinegun or with tommygun or with hand grenades.

Q Where was Nidre during this period?

A He fought with his platoon each time, yes.

Q And you saw him during this period?

A Oh, yes.

Q What happened in June?

A We were taken out and thrown here (indicating), at Auvere, we changed out one German division there.

Q You did what to a German division?

A We changed. They came out and we got in.

Q I see. You exchanged?

A Yes.

Q I see.

A After a couple of days, we made us ready, we knew that an attack is coming immediately and then it came and about three days we fought these Russians off.

Q Where was that?

A By Auvere.

Q Did your rank remain the same during this period?

A No, I was promoted to a lieutenant in April.

Q Why were you promoted?

MR. STANFORD: I object to that because this is not within his own personal knowledge, since the promotion is made by somebody else.

THE WITNESS: That was routine.

BY MR. PRETTYMAN:

Q Was it because of any particular act of bravery?

A No.

Q You had simply spent enough time in the service?

A Yes.

Q You were promoted to what? First or second lieutenant?

A I think first lieutenant.

Q Tell us about this three day battle? What was your casualty rate during this period?

A Afterwards, when I took command of a company, we had losses about --

Q I don't want to know about afterwards. I want to know during this particular period?

A About half.

Q During the three day battle?

A Yes.

Q You lost half of your men during the three day battle?

A Yes.

Q Did you win that battle?

A Yes.

Q As a result of that, what happened?

A They were thrown back in the swamps and after that battle, the Narva front was abandoned.

Q Were you wounded?

A Yes.

Q When was the first time you were wounded in battle?

A I got a slight scratch in Ukraine as I was in the Prippet Swamps as I recalled earlier but that was only a scratch.

Q From what?

A A bullet.

Q Where was that?

A Here (indicating) on my leg and after -- on the third day in Auvere I got wounded the second time.

Q Was that in June of '44?

A Yes.

Q Where was that?

A Splinter through skull and then through -- "Durchschuss" -- through my leg (indicating).

MR. STANFORD: The thigh?

THE WITNESS: Yes.

BY MR. PRETTYMAN:

Q What kind of splinter?

A That was anti-tank grenades which exploded near me. I got the splinters.

Q Were you removed from action because of that?

A Yes.

Q Where did you go?

A To hospital in Tartu.

Q How badly were you wounded?

A Not seriously.

Q Were you admitted to the hospital at that point?

A Yes.

Q How long did you stay?

A I stayed only a week.

Q Do you still have a scar from the head wound?

A Yes, I think so (indicating) under the hair and the most visible is here (indicating).

Q Did this sliver actually pass through the back of your head?

A No, it stuck through the helmet in my skull.

Q It just made a surface wound?

A Yes.

Q And through your foot?

A Yes (indicating).

MR. STANFORD: Leg.

THE WITNESS: Leg.

BY MR. PRETTYMAN:

Q I can't see where you are pointing?

A My right leg here (indicating).

Q Through the middle part of your thigh?

A Yes.

Q Did the sliver go through?

A It stuck.

Q It stuck again?

A Yes.

Q How long did you say you were in the hospital?

A One week.

Q Then, what happened?

A I escaped.

Q Were you a lieutenant by the time you were wounded?

A Yes.

Q You were made a lieutenant right on the front?

A Yes.

Q This was a front line promotion?

A There was, you know, an official battalion --

Q Announcement?

A Announcement, of who was promoted.

Q Was Nildre promoted at the same time?

A Oh, yes.

Q What happened to you after you got out of the hospital?

A I didn't get out, I escaped from that hospital.

Q Tell us about that?

A I heard through another wounded who came there that afterwards my company another officer took over, and it had got a very inefficient commander and they were almost all slaughtered in following battles and I got so much upset that I came secretly out of the hospital and went back to my boys.

Q What was the name of the hospital?

A That was the Second Haavakliinik.

Q What city was that in?

A Tartu.

Q What was the date or the time you entered this hospital, as best you remember?



A That was the battle of Auvère, the third day.

Q The third day of the battle?

A Yes.

Q You went directly to the hospital?

A Yes.

Q Were you carried on a stretcher?

A Yes.

Q And you stayed a week?

A Yes.

Q And you heard from another patient about this battle?

A Yes, there was another wounded from our battalion who came afterwards in and the battles went all the time on.

Q He told you that your battalion had been slaughtered?

A Almost, yes.

Q Almost slaughtered?

A Yes.

Q And therefore you decided to get out?

A Yes.

Q Although you were still wounded?

A Yes.

Q Where did you go?

A Back to my battalion.

Q I see. And where were they then?

A They were in reserve.

Q Where?

A By "Kloster" -- What is that?

THE REPORTER: Monastery.

THE WITNESS: Monastery. I don't recollect that name.

BY MR. PRETTYMAN:

Q Near Tartu?

A Oh, no, near that front line where it was at this time. I don't recollect that now.

Q Would it help you to look at the map (indicating)?

A Yes.

(Whereupon the witness examined a map handed him by counsel).

THE WITNESS: Some place here (indicating), in this vicinity. They had retreated.

BY MR. PRETTYMAN:

Q Near Jarve?

A About there.

Q (Spelling) K-o-h-t-l-a hyphen (spelling) J-a-r-v-e.

A Yes.

Q Did you find when you got back there that your company had in fact been badly slaughtered?

A Yes.

Q How many were remaining?

A One third about.

Q Of your battalion?

A From my company and from the battalion, too, yes.

Q About a third left?

A Yes.

Q Was Mr. Nidre still alive?

A Yes, he was still alive.

Q He was still at that point?

A Yes.

Q This would have been, I take it, the first part of July?

A Yes.

Q 1944?

A Yes, about that.

Q Now, tell us what happened during the remainder of July of that year?

A We were reinforced.

Q Reinforced?

A Yes, reinforced.

Q By Germans or by Estonians?

A By Estonians.

Q What unit was that?

A They took cooks and all these fellows out from division, and new, fresh, mobilized soldiers and so on and we had about two weeks or so retraining or training course for these new men and then we were ready.

Q Tell us about your front line experiences that you recall during this period?

A We were in readiness this time.

Q In other words, you were not in battle during July?

A No, no.

Q You were back in a place off the front?

A Yes.

Q In readiness?

A Yes.

Q For the entire month?

A Yes.

Q When you say you were "reinforced," you mean that you were replaced?

A Yes.

Q And some one else took your place?

A Yes.

Q You went back to a back area?

A Yes.

Q And just waited?

A Yes.

Q Then, what happened in the beginning of August?

A We were thrown -- The Russians broke through south of Tartu, my home town. All these towns south they broke through. The front in the north of Estonia that held, but they broke through in the south of Estonia and as we were in readiness, we were thrown against these advancing Russians there and we threw the Russians a couple or ten miles back and then entrenched ourselves by a little village named KambiJa. Then we were encircled and all destroyed there.

Q Every one was destroyed?

A Most of us.

Q Tell us about that battle?

A We knew that the Russians already were making themselves ready to attack but we didn't know when they would begin attack and it was very, very bad luck that we had. The Germans that were on our left front left without, they ran one night without telling us that they had gone. Our left flank was open and early in the morning the next day

the Russians began to attack and encircled us and that was all. The tanks ran over our front lines and they reached the battalion headquarters where I was and at the moment, and I helped to get our commander - -

Q You helped him to get away?

A Away, yes.

Q Was he wounded at the time?

A He was wounded afterwards, and then I was as a rear guard to get the wounded out, and then it was too late for me to escape because we were encircled. About five men were left. We were then and then we made --

Q Out of the whole battalion?

A The whole battalion was destroyed already in the front line, but the boys who fled back to the headquarters were there. Only five were left at last and then we made a desperate attempt to break through and I got through with two men.

Q You what?

A I got through with two men only.

Q Who were they?

A I don't remember their family names any more.

Q Did you break through the Russian lines?

A Yes.

Q How long did that take you?

A That was a few moments. We lost these two men on the way and then we were in a forest and ran for our lives.

Q What percentage of your battalion was destroyed? I take it virtually everybody except these five?

A Maybe a dozen or so stayed a live, but I don't know about that.

Q What happened to those five, do you know?

A Two were killed and we three got through.

Q Three of you got through?

A Yes.

Q How did you get through? Did you just start running and there happened to be nobody there?

A We started running and they fired at us.

Q You saw them?

A Oh, yes.

Q You saw the Russians?

A Yes, we saw their eyes.

Q You saw their eyes?

A The white of their eyes.

Q How many were there?

A Hundreds.

Q Hundreds?

A Yes.

Q And they were so close you saw their eyes?

A Oh, yes.

Q And they were all firing at you?

A They were all over. They made a hell of a noise,  
I can say.

Q Did you run right at them or away from them?

A Away from them.

Q I thought they had you surrounded?

A As it came, as it came out, when we ran over that  
field, a potato field, they fired from behind, but we got  
into the woods, then in one moment we saw the Russians in  
front of us already.

Q Then, how did you get through?

A That was a push. They were surprised, the Russians  
and I had a machinegun and I tried -- I was the first who  
reached that firing position and my gun was empty. In the  
heat I had forgotten to load and there was nothing to do but  
again run for your life, as you can, and they fired after us  
but they didn't hit anybody.

Q Could you see their eyes at that point?

A Oh, yes.



Q You could still see their eyes?

A Yes.

Q Were there hundreds there?

A No, three only.

Q Three Russians?

A Yes.

Q And they fired at you?

A Yes, three or two. I don't know.

Q Is that when your two companions were killed?

A No, they ran with us, with me.

Q But you mentioned two companions out of the five that were killed?

A When we ran over the potato field, two were killed there in that potato field.

Q I see. And the three of you then simply kept running. Did you run right through these three Russians that were staring at you or did you run around or what?

A To the left, to the left.

Q Pardon me?

A To the left. We were about from here (indicating) and my machinegun didn't fire and they were very surprised and they were frozen for a moment, and then we recovered quickly and we ran to the left and they fired after us but

didn't hit anybody then.

Q Did they chase you?

A Oh, yes.

Q How long did you have to run?

A As long as our breath allowed. I don't know how long I ran, how much.

Q Did your breath hold out longer than their breath held out?

A Almost the same time. We had to stop.

Q And they stopped, too?

A Yes.

Q And you could see the whites of their eyes at this point?

A Whose?

Q The Russians?

A No, the Russians didn't come after us. The three, we three.

Q I misunderstood you. I thought they were chasing you?

A No, No, they -- You know, when there is fear, the fear has wings.

Q So they didn't chase you at all and you just kept running?

A Maybe they chased, but they gave up, I think.

Q So now, what happened to the three of you? So far as you knew you were still surrounded by the Russians?

A Yes, we knew that for sure.

Q What happened to you?

A We searched for a place to hide and --

Q Where was this now?

A In the forest, in the heavy underbrush, and we waited and then we tried to reach our units.

Q What happened?

A It lasted about two days, two nights, --

Q Were you seeing Russians during this period?

A Oh, yes, many times.

Q But they didn't see you?

A No.

Q And then --

A And then we got to the river and one bridge, it is called Jänese. It was a shallow place and I decided to try to cross the river. We assumed that our units or German units were over there and when we reached that bridge, as it came out afterwards, it was about 1950, I knew that these were the German planes, aeroplanes. The bridge was only half way destroyed and the planes had gotten order to destroy

that completely and I was near that bridge and they began to bomb that and I think now, it was our own bomb that dropped down and I was severely -- What is it called? Contusion?

MR. RASKAUSKAS: Concussion.

THE WITNESS: Concussion.

BY MR. PRETTYMAN:

Q A bomb dropped?

A Yes.

Q You were nearby?

A Yes, I was nearby. I was about fifty yards in front of these two men and I got concussion.

Q You mean, they threw themselves?

A No, I don't know what happened with them. I didn't see them afterwards.

Q Were they killed?

A I think so.

Q Now, you had gone through a very harrowing experience with these two people?

A Yes.

Q Tell us about them?

A We were a couple of times very near of losing our freedom. The first time was when we were hidden in the underbrush and there was an unpleasant experience when a

Russian mission on horseback came through that forest where we were hiding, and almost -- that horse almost stepped on my body, and a couple of times at night we accidentally saw Russian camps and alarmed the guard posts and our feet rescued us.

Q I am glad to have this information, but my question was --

A I am sorry.

Q My question was: Tell us about these two men that you had this experience with? I take it you can't remember their names?

A No.

Q Were they from Tartu?

A No, they were from some place else, from some county there.

Q Were they your age?

A One was older and one was about the same age or a little bit older. One was thick and one was thin, thick and thin.

Q Thick and thin?

A Yes.

Q Do you remember their first names?

A One was Joseph. The other I don't remember at all,

indeed.

Q You have never heard from them since?

A No.

Q Have you ever tried to find out what happened to them?

A No, how can I? I don't know their names.

Q All right, you were knocked unconscious there?

A Yes.

Q How long were you unconscious?

A I don't know exactly when I woke up. I was encircled by Russians.

Q Were you actually wounded during that period and I mean by that, were you bleeding anywhere?

A Yes, my old wounds broke open again.

Q The ones in your head and leg?

A Yes, and they were searching me. At the moment when I regained consciousness they took all the valuables what I had.

Q What valuables did you have?

A I think I had some money and my porte --

MR. RASKAUSKAS: Wallet.

THE WITNESS: Wallet, yes, and my watch and so on.

BY MR. PRETTYMAN:

Q You were in uniform?

A Oh, yes.

Q The Waffen S. S. uniform?

A Estonian Waffen S. S. with Estonian (indicating),  
the Estonian Waffen S. S. had the Estonian national flag  
here (indicating) on the left arm.

Q Where was the swastika?

A Here (indicating) over that.

Q On the left arm?

A Yes, I think so.

Q Was there a swastika on your cap, too?

A No, there was a skull.

Q What?

A A skull.

Q That was the Waffen S. S. trademark?

A Yes.

Q The skull?

A Yes.

Q Was there another skull on the uniform some place?

A No.

Q What were you wearing? Boots?

A No, I wore my long trousers and boots.

Q And boots?

A Yes.

Q How high were the boots?

A German Army boots.

Q Black?

A Yes.

Q Any insignia on the boots?

A German Army boots.

Q Any insignia on the pants?

A Oh, yes.

Q What?

A The German Waffen S. S.

Q What was that? The skull?

A No, no, Waffen S. S., I think.

Q Written on the pants?

A Yes.

Q Where was that?

A Inside, not on the back.

Q And in the wallet you had what type of identification?

A I had destroyed my "Soldbuch" and took off my medals and these things when we were hiding.

Q What medals did you have?

A The Iron Cross Second and a medal for wound, like



the Purple Heart. What did I have more? Close Hand Fighting mark.

Q Mr. Heine, you actually had what you would call a Purple Heart medal, a medal signifying you had been wounded in battle?

A Yes.

Q When did you receive that?

A I got back from hospital, from Tartu.

Q Back to your troop?

A Yes.

Q Who awarded you this medal?

A Every one was wounded got it. There were three classes. One was black. That was two to three times wounded. Silver was five times wounded and golden was seven or ten, over that.

Q Which was yours?

A Black.

Q When did you get your iron cross?

A After the battle of Auvere.

Q When you were awarded that, what did the award say?

A Bravery before the enemy.

Q What had you done?

A I took over the company when it had lost its officers a hundred percent and was on the verge of escaping and throwing away their arms in panic. I went to that.

#4

Q How did you stop the panic?

A I ran to that company on that front line and I slapped them to their senses. That was about the best thing to do.

Q How did you do it?

A Pardon me?

Q How did you slap them to their senses?

A You know, when some person is hysterical and doesn't know what he does, the best way is to slap (indicating), give him a couple of slaps on his face and he wakes up.

Q Did you run up and down the line and slap them?

A Not all, a couple who were hysterical. The most helpful thing I did there was I took full command right away and that was -- the position was saved.

Q As soon as you arrived and slapped their faces, then --

A Not all, some.

MR. STANFORD: I object to that as trying to characterize it with too great simplicity. I think he has brought out that he took command of these forces. To

simplify it to that extent is to inaccurately characterize his description. In view of his language difficulty I think it might be placing words in his mouth which maybe in accurate.

BY MR. PRETTYMAN:

Q You stop me any time I put words in your mouth, Mr. Heine --

MR. STANFORD: I am not saying that you are, but I think when we have some language difficulty he may affirm some sentence that may appear to be correct but is not really accurate, due to the fact that he does not have a total understanding of what you are saying.

BY MR. PRETTYMAN:

Q After you slapped the faces of these two men --

A Yes.

Q -- did the situation then solidify itself so that there was no more panic?

A The situation was saved mainly because I took command.

Q Your presence?

A My presence.

Q Saved the situation?

A Yes.

Q Going back to the time you found yourself surrounded by Russians, I want to get what identification you had on you. You mentioned medals?

A Yes.

Q You had a wallet?

A Yes.

Q Tell us what was in the wallet that identified you?

MR. CONNOLLY: He said he got rid of the wallet and the medals.

THE WITNESS: They took off my watch and took my wallet.

BY MR. PRETTYMAN:

Q The medals you had gotten rid of but you still had the wallet?

A I had destroyed my "Soldbuch", paybook.

Q Your paybook?

A Yes.

Q What was in your wallet?

A In my wallet there was some money and some letters from my mother. Not much.

Q How much?

A A couple of hundred marks, maybe.

Q This was German marks?

A Yes.

Q And the letters were addressed to you where?

A The front line, "Feldpost". Fieldpost. Every unit had its own field post number.

Q Where was your mother at this time?

A In Tartu, I think.

Q She was writing you from Tartu?

A Yes.

Q You had no other identification on you?

A No.

Q You had thrown away all your identification?

A Yes.

Q Other than these letters?

A Other than these letters, yes.

MR. PRETTYMAN: Off the record.

(Whereupon a brief recess was taken during which the witness and his two counsel left the hearingroom.)

BY MR. CONNOLLY:

Q Mr. Heine, is it accurate to say that with your capture by the Russians, your service in the German military establishment was terminated?

A Yes.

Q Until you were exchanged in 1956 you never again

saw a German?

A No.

Q You were never again under German jurisdiction up to that time?

A No.

Q Before we leave this German experience, there are some questions I would like to ask you.

A Yes, please.

Q As I understand from Mr. Prettyman, who gave me a very brief fill-in, your first experience in German service was a political security officer in Estonia?

A Not first.

Q What was the first?

A When I volunteered to the German Army, the Estonian unit in the German Army.

Q But shortly thereafter you were then sent to Estonia, is that right, when the Germans had taken it?

A Yes.

Q And the invasion of Russia started?

A Yes, February '42, yes, I was sent to Estonia.

Q What was the precise name of the political police corps which you were associated with?

A Estonian Political Police.

Q Was this an internal security unit?

A Political matters they handled.

Q Do you know the meaning of the word "internal security"?

A Yes, I think so.

Q Your job was to round up and interrogate people who were thought to be enemies of the state, correct?

A Yes.

Q Among the people that you interrogated were there Jews?

A No.

Q Do you have any Jews in Estonia?

A We had, yes.

Q Did the Nazis round them up?

A Most of them, yes.

Q Where were they taken?

A I don't know.

Q Did you participate in that?

A No.

Q Did you participate in any of their interrogations?

A No.

Q Did the Germans maintain any concentration camps in Estonia?

A I heard of that one, yes.

Q What was the name of it?

A Klooga, I think.

Q Where was it?

A Near Tallinn, I think.

Q Have you ever visited it?

A No.

Q You never did?

A No.

Q In what cities did you work?

A In Tallinn and Haapsalu.

Q In Tallinn and Tartu?

A Haapsalu.

Q Haapsalu?

A Yes.

Q You didn't have any service in Tartu?

A No.

Q Wasn't that odd?

MR. STANFORD: I object to the question. It is calling for speculation.

BY MR. CONNOLLY:

Q Was there any reason given to you as to why you were not assigned to the city of your birth?



A I was called to Tallinn.

Q Did you ever suggest to your German superiors that you knew Tartu and its surroundings and its people extremely well, having been born there?

A Maybe you don't know, but a simple man couldn't suggest nothing for higher authorities.

Q On your return to Estonia under German auspices did you again see your boyhood friend Ilmar Keerd?

A No.

Q You did not?

A No.

Q Did you hear of Ilmar Keerd when you had returned to Estonia?

A No.

Q Did you know what he had been doing?

A No.

Q Have you heard since?

A I met him here in New York.

Q I understand that he did tell you what he did during the brief Russian occupation of Estonia between 1940 to 1941?

A No.

Q Did he tell you when he came to the west?

A I don't recollect.

Q Did you visit your birth city of Tartu while you were there on police duty?

A Yes.

Q In Tallinn?

A Yes.

Q Did you see your wife?

A I wasn't married then.

Q I know, but did you see the girl?

A No.

Q Who eventually became your wife?

A No.

Q Was she in Estonia?

A I believe so, yes.

Q But you did not see her?

A No.

Q When did your mother and father return from Germany? To Estonia?

A It must have been '42 or so.

Q Don't you remember?

A Not exactly.

Q When you first returned to Estonia as a political policeman, and returned to Tartu, did you find your mother

and your father at home?

A No, they weren't there.

Q Where were they?

A In Germany.

Q Did there come a time when they returned?

A Yes, in '42, I think.

Q Did they take up occupancy in the old family home?

A I believe so, yes.

Q What was the address of the family house?

A 69 Kalevi.

Q Will you spell it, please?

A (Spelling) K-a-l-e-v-i.

Q When they returned was the piano factory reopened?

A No, I don't think so.

Q How did they support themselves?

A They had lots of money.

Q Had they taken it with them to Germany?

A When they left Germany they realized this money in gold and jewels and so on, what they could take.

Q When they left Germany?

A No, when they left Estonia, then they bought for money they could recover before they left.

Q They took gold and jewelry with them?

A Yes.

Q And the Russians let them pass into Germany with gold and jewelry?

A Yes.

Q They never made any attempt to deprive them of that?

A No.

Q Your mother must have had a very extensive jewel connection, did she not?

A Oh, yes.

Q What form was the gold in? Gold bullion?

A Yes, bullions, yes.

Q In blocks or bars?

A No, no, I didn't understand it. In gold coins.

Q Gold coins?

A Yes.

Q Where did the gold coins come from?

A Oh, they were circulating there. Old Russian gold coins.

Q But Estonia in 1940 didn't have gold coins in circulation?

A Oh, no, no.

Q Did your father have a collection of these?

A No, that was -- They circulated underhand in the black market.

Q But the Russians had taken over the piano factory, I take it?

A Yes.

Q Confiscated it?

A Before that, what they could collect, what they could save from that fortune they had.

Q But what they saved was in the form of jewelry and gold coins?

A Yes.

Q I take it, your father had substantial bank accounts in the local banks, did he not?

A Oh, yes, he had, yes.

Q Estonia had its own currency, didn't it?

A Yes.

Q What was the basic unit of Estonian currency?

A Krone.

Q This was not the Swedish Krone, this was its own?

A Its own krone, yes.

Q When the Russians took over, they closed the banks did they not?

A Yes.

Q And did they recognize the krone?

A First yes, but they devaluated it.

Q So in effect your father's fortune was wiped out in a couple of weeks?

A Almost, yes.

Q Now, when they came back from Germany to Estonia in 1942, did they bring back jewelry and gold coins with them?

A Some, yes.

Q What had they done in Germany to support themselves?

A To buy food and buy clothing and so on.

Q I beg your pardon?

A Buy additional food --

Q Did your mother and father work in Germany?

A No.

Q They had taken enough out of Estonia in 1940 so they could support themselves without working in Germany till 1942?

A Oh, yes.

Q When they came back to Estonia, what did they bring back with them?

A Some jewelry and gold coins.

Q Did your mother and father then go to work in Estonia?

A Yes, my father went to work, yes.

Q Doing what?

A He was installed as director of some kind of factory in Tartu.

Q When you were on this duty as political policeman in Estonia, who did you see, where did you take your recreation? Did you go home for your leaves to Tartu?

A No, we didn't have leave.

Q Did you have a day or two a week off?

A No, no.

Q You worked seven days a week?

A Around the clock.

Q You don't really mean the literally, do you?

A Oh, yes.

Q You didn't work twenty-four hours?

A Twenty-four hours.

Q You didn't have any sleep?

A Not twenty-four hours, but every day of the week, whenever we were needed we were called when we were off duty.

Q Maybe so, but you didn't day in and day out work

sevendays a week, did you?

A Oh, yes, I did.

Q How many hours a day?

A As it was needed.

Q One, two hours?

A Eight, ten, twelve, twenty-four.

Q There must have been some times when you took off  
and went to your home in Tartu?

A Yes, I was there two times.

Q Only twice?

A Yes, only twice.

Q Do you remember any old friends you saw?

A Yes.

Q Who did you see?

A A girl named Krim.

Q A girl named Grim?

A Krim.

Q What was her first name?

A I don't know it, her first name.

Q (Spelling) G-r-i-m?

A (Spelling) K-r-i-m. There was a girl named  
Baltzer. I don't recall the first name.

Q This was the first time you had been back --



A Yes.

Q -- to Tartu since you were captured in August of 1940?

A Yes.

Q You must have been a hero in the town, weren't you?

A I was.

Q Did they have a celebration for you?

A No.

Q Did the mayor compliment you?

A No.

Q Were there any parties or receptions?

A No.

Q Who knew of your exploits?

A My friends.

Q Who were they?

A Almost all people from Tartu knew from that.

Q That is why I say, when you got back to Tartu on leave, when you came back to Estonia, did they not try to show some recognition of your --

A Can I say something?

Q Certainly.

A I did what I did not for honor but because I

loved my country.

Q I am sure you did, but you came back to a small town --

MR. RASKAUSKAS: I object. The witness, I think, has given an exhaustive answer that there were no celebrations, receptions or anything whatsoever and I think the question/<sup>that</sup> has been propounded now is argumentative.

MR. CONNOLLY: Your position is well taken.

BY MR. CONNOLLY:

Q When you got back, did you see any of your old friends?

A You must know that Tartu was almost eighty percent destroyed.

Q By whom?

A By the Russians.

Q On what occasion?

A In Tartu -- I was this time in Germany -- the guerilla, the underground and guerilla forces staged an uprising in Tartu and in the course of this fighting, Tartu was almost all destroyed.

Q There were still some people living there?

A Yes, some people, but --

Q Did you see any of your old friends?

A I told you I saw my old school fellows who were there at this time.

Q Who were they?

A A girl named Krim and Miss Baltzer and others.

Q MissKrim?

A Yes.

Q And who is the second one?

A Baltzer.

Q Male or female?

A Female.

Q What is her first name?

A I don't recollect now.

Q Anyone else?

A There were some two or three more, but I don't recollect their names now.

Q Did you see any people for whom you worked or who worked under you in the underground?

A I don't think so.

Can I make a correction?

Q Please do.

A I met one boy from that underground movement, yes, in Tartu at this time, I think.

Q What is his name?

A Ahto Pae.

Q In September of 1942 you volunteered to go into the German Army, right?

A September?

Q 1942?

A 1942? Yes.

Q They were forming an Estonian Legion?

A Yes.

Q And did anyone from your home town join?

A Maybe there were some people, but I don't recollect. You must know that I have met thousands and thousands of people and to know every one I met exactly by family name and first name, that is impossible.

Q All right. Where did you go to training?

A Debica.

Q And you were there, as I recall, for six months?

A Yes, about so, I think.

Q And said that you were not able to name who your buddy or best friend was at Debica?

A There were many good buddies but I don't recollect their names.

Q No one?

A May I ask you a question? Do you recollect your buddies in the army now?

Q I certainly do.

A I don't. That is very, very good for you. I don't to that.

Q I don't think I will ever forget them.

A I can't do that. Some persons have photographic mind. I recollect very good faces, but names and numbers are very bad with me.

Q This was a school for --

MR. RASKAUSKAS: I object to these questions as being repetitive. You are covering the same ground that has already been covered. You have stated that you intended to depose this man and bring him up to 1957. We are now about in '44 and we are now moving backwards and on this basis, Mr. Connolly, this will be interminable.

BY MR. CONNOLLY:

Q This battalion in which you found yourself was a Waffen S. S. unit?

A Yes.

Q And you said that this was an Army unit, this was not what was known as "Stormtroopers"?

A Stormtroopers, yes, Stormtroopers were Army units,

too.

Q But this had nothing whatsoever to do with political activities?

A No.

Q Or the organization of the Nazi party?

A No.

Q There was another S. S. unit that had charge of that?

A Yes.

Q What was their name?

A S. D.

MR. RASKAUSKAS: I object.

THE WITNESS: S. D.

BY MR. CONNOLLY:

Q How do you spell it?

A Sicherheits Dienst, Security --

MR. RASKAUSKAS: I object to this entire line of questioning. I think it is vexatious, harassing and oppressive on this witness. The last four questions that have been propounded are identical to questions that have been heretofore propounded and I don't propose to have him answer the same questions interminably and I request that you discontinue this line of questioning.

BY MR. CONNOLLY:

Q You told Mr. Prettyman just before the break that you were attempting to escape from the Russians and that you were knocked unconscious by a bomb blast?

A Yes.

Q When you recovered your consciousness you were surrounded by Russians?

A Yes.

Q Who taken from you your wallet and identification papers?

A I didn't have any identification papers.

Q You didn't have any identification papers?

A No.

Q What was in your wallet?

A Some money and some letters from my mother.

Q Well, the letters would have your name on them, would they not?

A How?

Q The letters were addressed to somebody, were they not?

A Yes, "Dear Son".

Q The envelopes had an address on them?

A I said "letters", not envelopes.

Q Did you give the Russians your correct name?

A No.

Q What name did you give them?

A Eerik Hein.

Q That sounds like what I have been calling you.

Now, what is the difference?

A Without "e" at the end.

Q I see.

A It is easier to remember.

Q In the American Army we had something we called "dog tags", metal discs that we wore around the neck?

A Yes.

Q Did you have such things?

A I had, yes.

Q Did you discard them?

A I hid that.

Q When?

A When I was in the forest. When I hid my "Sold-buch" and personal papers.

Q What was the reason for attempting to denude yourself of all forms of identification?

A Because I didn't want them to know that I was arrested already in 1940, because when they knew that, then



they would have shot me on the spot. I tried to play --

Q How did you explain the absence of your teeth to them?

A That was not -- it was more helpful than to damage, because teeth are very bad by Germans, because the care was very bad.

Q The what?

A Many Germans didn't have -- Many soldiers didn't have teeth, they didn't replace them like here.

Q What did the Russians do with you?

A They searched me and then they probably, as I thought, they wanted to shoot me down, but then some Russian Estonian saved me.

Q After they searched you?

A Yes.

Q Did they make any comment upon the absence of papers or identification?

A No, I don't think so. They used bad language as they usually do.

Q You were in S. S. officer's uniform?

A Estonian S. S. officer, yes.

Q Did they look to see if you had your tattoo?

A Not this time, they didn't look.

Q Did they hit you?

A Oh, yes.

Q With fists or with gun butts?

A With everything they had in their possession.

Q Did they knock you unconscious?

A Half way, yes.

Q You said that a Russian-Estonian or Estonian-Russian intervened?

A I believe so, yes.

Q So you became a prisoner of war?

A Yes.

Q And this troop that had you surrounded, where did they take you?

A It wasn't the troop that surrounded us. It was altogether another -- I wasn't in the spot where we were surrounded. I was twenty miles or more away and I was captured at the bridge of Jänese and I was put on a truck and taken to Tartu.

Q Were you taken to a prisoner of war processing center in Tartu?

A Yes, you may call it that. It was some commando punkt or staff or headquarters.

Q Were there other prisoners of war there?

A There were some, yes.

Q Were you sent back to some prisoner of war enclosure?

A Oh, yes.

Q How long did you stay in Tartu?

A Maybe a couple of hours.

Q Then you were shipped out?

A Not shipped. We were escorted -- we were walked to prison camp.

Q Where?

A Near Tartu.

Q What was the name of it?

A It hadn't any name. It was in a field encircled with barbed wire.

Q Didn't it have any name, like Prisoner of War Camp Number 6 A?

A Maybe it did, but I don't know.

Q You don't know what the name was?

A I was too dazed.

Q You were out of your head?

A Yes, concussion and the old wounds broke open and so on.

Q I was going to ask you about that. Did the

concussion cause these old wounds to come open?

A Not old wounds, they were pretty fresh. I was wounded by Auvere.

Q When?

A When that battle took place, in June.

Q That was three months earlier?

A Do you think that it heals so quick?

Q It was in your leg, was it not?

A Yes, in my leg.

Q Did it reopen?

A Yes, it reopened.

Q It was bleeding, was it?

A It was bleeding and -- How is it called? It went bad.

Q Infected?

A It was infected.

Q When you got to this enclosure, were you given an examination?

A No, not at all, I think.

Q Were you not stripped of your clothes?

A No.

Q No medical examination?

A No.

Q No medical treatment?

A No.

Q You were not asked to disrobe?

A I was asked to disrobe later on.

Q Where?

A By Petseri. After the journey to Petseri.

Q You were transported to another prisoner of war facility?

A We were walked down, yes.

Q How far was that?

A A couple of hundred kilometers.

Q When you got down there -- You walked with an open wound, an infected wound?

A Most of the day -- most of the way -- I met there about twenty Estonian prisoners of war and I was -- to save my life they carried me most of the way.

Q Did you tell them that you were Estonian or German?

A Estonian.

Q But your captors, did they know you were Estonian?

A They knew, because I had that tricolor.

Q Why did you drop the "e" from your name, then?

A I told you, because I was afraid when they got wind of that I was arrested already in '40, then I would go right to hell.

Q By dropping the "e" from your name, you were trying to convert it to a Germanic name, weren't you?

A I don't understand the question, please.

Q By dropping the "e" from your name, you were trying to convert it to a Germanic form, were you not?

A Form.

MR. STANFORD: Did you change your name from Heine to Hein in order to make it appear as if it were German and not Estonian?

THE WITNESS: No, Hein is a more Estonian name. Heine is a German name. Hein is an Estonian name.

MR. STANFORD: In other words, it was the very opposite?

THE WITNESS: Yes.

BY MR. CONNOLLY:

Q Now, when you got to the prison camp, did you get medical care?

A Yes, the first time.

Q I take it, you were made to disrobe?

A Yes.

Q What comments were made by the physicians who saw the scars on your testicles?

A The scars?

MR. STANFORD: I don't know whether they were seen or examination was made of them.

BY MR. CONNOLLY:

Q What disfigurement do your testicles have after this electrical stimulation?

MR. STANFORD: Are there any outward visible signs? On your sexual organs?

THE WITNESS: I think not.

BY MR. CONNOLLY:

Q None whatsoever?

A Yes.

MR. STANFORD: Were there at that time?

THE WITNESS: Burns, burnmarks.

BY MR. CONNOLLY:

Q No visible scarring?

A No.

Q So anyone looking at you two years later would not notice anything?

A I don't think so.

Q But nevertheless you now are sterile?

A I think so, yes, because we have tried to have children yet nothing comes out of that.

Q That doesn't prove anything.

MR. RASKAUSKAS: I object.

MR. CONNOLLY: Off the record.

(Whereupon a brief off the record discussion followed.)

BY MR. CONNOLLY:

Q Did you stay in this camp? For any period of time?

A Maybe a couple of weeks.

Q Were you then sent to a permanent prisoner of war camp?

A Fifteen hundred prisoners of war were taken out one day and put on a train and we were shipped toward Leningrad then.

Q Now, before I forget, can you give us the date of your capture?

A It was the end of August, I believe it was the 29th.

Q You were sent toward Leningrad. Were you then put in a permanent P. O. W. camp?



A No.

Q What camp were you taken to? Where was it?

A There were some German officers, four or five, and all prisoner of war officers with officers rank were separated from the soldiers near Leningrad and we were sent in a prison camp near Moscow.

Q What was the name of it?

A I don't know.

Q How long did you stay there?

A I believe I stayed there until December, the same year.

Q Now, you were taken to Leningrad on a train?

A Yes.

Q And you got to a camp there but you did not stay?

A We were four or five officers who were not taken into camp at all. From that train we were put on another train.

Q I see. And sent to a camp near Moscow?

A Yes.

Q And you don't know the name of it?

A No. There were about four thousand German officers.

Q At this point you were being treated as a German officer who was being captured on the Eastern front?

A Yes.

Q And in this camp there were four thousand German officers from all over the front?

A Oh, yes, from all over the front.

Q From the southern, central and northern front?

A Yes.

Q This was in December?

A Until December, yes.

Q You were kept in Moscow or near Moscow until December?

A Yes.

Q Now, when did you get to the camp near Moscow?

A It could be the end of September or so.

Q Was there a barracks or building where you stayed?

A Yes.

Q How many officers per barracks?

A There was a big, old monastery and that would hold six, seven stages of these bunks and then these barracks would hold a couple of hundred per barrack and that big one, there were over a thousand in there.

Q Over a thousand didn't sleep under one roof, did they?

A Oh, yes, oh, yes.

Q Weren't you in different rooms?

A I was in a barrack, but there was an old monastery and that was built -- it was used for German officers, too, and these bunks, seven or eight or more (indicating) --

Q Were you in the monastery or the barracks?

A The barracks.

Q All right, and the barracks were built on one floor?

A Yes.

Q How many in your barracks?

A About two hundred.

Q What designation did it have? K 6 or what?

A I don't remember that.

Q They didn't have any name on them?

A They had numbers.

Q But you don't remember them?

A Oh, no.

Q Were any Estonians there?

A No.

Q You were the only Estonian?

A Yes.

Q Were any attempts made to escape?

A Not this time.

Q Did you form any friendships there?

A Oh, yes.

Q With Germans?

A No.

Q With whom?

A With one Lithuanian.

Q What was his name?

A Napoleonus Cernius but he had an assumed name  
as I had, Cernus.

Q What was his real name?

A Napoleonus Cernius.

#5

Q Is he in the West to your knowledge?

A I don't know.

Q Did you ever see him after you left the prison  
camp near Moscow?

A We went together to another prison camp.

Q But he is the only person with whom you formed  
any identifying friendship in this prison camp near Moscow?

A He was the best friend in my life.

Q Well, to answer my question, he was the only one with whom you formed any fast friendship at the prison camp near Moscow?

A Yes.

Q How long did you stay at the camp near Moscow?

A Until December.

Q And then, where did you go?

A Then I was declared an enemy of the state.

Q While you were still in the camp near Moscow?

A Yes.

Q At the prison camp near Moscow, were there any other Waffen S. S. officers there?

A I think there was one.

Q Had they at all separated Waffen S. S. officers from other types of officers?

A I believe, so, yes.

Q When did the separation take place?

A Not when I was there.

Q Were there any other Waffen S. S. troops that you had encountered following your capture until you got to Moscow?

A No.

Q So when you were being transported toward Leningrad

and then again to Moscow, as far as you knew, you were the only one from the S. S.?

A No, ~~we~~ were twenty Estonians there.

Q Twenty Estonians from Waffen S. S.?

A Yes.

Q But you were the only officer among them?

A Yes.

Q They were the ones who went directly to Leningrad?

A Yes.

Q Did you ever hear what happened to them?

A No.

Q Have you ever seen any of them again?

A No.

Q Napoleonus Cerniun, he was not Waffen S. S.?

A No.

Q What was his rank or rating?

A Lieutenant.

Q Wehrmacht?

A No, he had the old Lithuanian army uniform.

Q He wore Lithuanian army uniform?

A Yes.

Q Now, when you got to the camp near Moscow, you must have gotten there some time in late September?

A Yes.

Q Did you get medical care and treatment?

A Yes.

Q Did you also undergo a period of interrogation?

A No.

Q Did you undergo any period of propagandizing?

A Yes, there was a movement "Bewegung Freies Deutschland", formed by Russians amongst German prisoners of war.

Q There was a movement to recruit German officers into the Russian Army, was there not?

A That I didn't know.

Q Weren't they trying to convince German officers of the political error of National Socialism?

A Oh, yes.

Q And trying to convince them that they should become communists?

A Yes.

Q Was any attempt made with respect to you?

A No, I was not a German.

Q Was any type of political education attempted on you at all?

A No.

Q Now, during the process of interrogation, what did you tell them, about who you were, where you were from?

A There was no interrogation.

Q I thought you said there was? That in the camp in Moscow you went through processing and interrogation?

A No, I didn't say that.

Q You were there for three months. How did you spend your time?

A Sleeping and looking for food and --

Q What do you mean, looking for food? Didn't they give you any?

A Yes, they gave, but the food was very meager.

Q How did you go about getting food?

A There were kitchen leftovers.

Q Was any attempt made to engage in physical labor?

A No.

Q At this time the Russian winter offensive was in full swing, was it not?

A Oh, yes.

Q It must have been a great source for optimism on part of your Russian captors, that they were going to overcome the German resistance?



A There was no communication between these guards and --

Q None whatsoever?

A No.

Q You were not told by your guards that the front was crumbling and that the Germans were being beaten?

A There were in the barracks the loudspeakers on the wall. They blared there all day and all night about the last news and so on.

Q I take it that from the German standpoint it was all bad news?

A No, I can't say that. Many hoped that the war would end very quickly and they all get home.

Q What was their idea? That there would be a negotiated peace?

A I don't know.

MR. STANFORD: I think he has misinterpreted this, the difference between what the individual soldier considered good and what was good for the German cause.

MR. CONNOLLY: I think he understood me.

BY MR. CONNOLLY:

Q Did you feel despondent? Did you feel that the War had come to <sup>an</sup> /unsuccessful end for you?

A Oh, yes.

Q Did the German officers have the same feeling?

A Maybe only a few.

Q Now, you said that in December you were accused of being an enemy of the state?

A Yes.

Q How did it come about?

A I was called to the tower of the camp.

Q To the what?

A The tower, gate of the camp. It is a little house called guard house. I was called inside and there -- there must have been at least half a dozen N. K. D. V. soldiers.

Q What kind of soldiers?

A N. K. V. D. , the Russian Secret Police, who guarded that camp and they overran me and hit me again half dead and tore off my officer's (indicating) --

Q Epaulettes?

A Epaulettes. And I was officially declared an enemy of the state.

Q Why?

A Because I was Estonian and in the German Army and I was traitor. They counted Estonia as part of the Soviet Union.

Q Because you had fought with the German Army?

A Yes.

Q They didn't treat all the Estonians who had fought with the Germans as traitors, did they?

A Oh, yes, all.

Q At any time before this, had you been fingerprinted?

A Yes.

Q Was there any attempt made to relate you to the young boy who several years before had been captured for trying to tear down the flag?

A Not this time.

Q How about your Lithuanian friend?

A The same treatment.

Q Were there any other Latvian or Lithuanian or Estonian officers?

A There were four Latvians, yes.

Q And they were treated the same way?

A Yes.

Q After being beat up, what happened to you?

A We were let out of that guard house and walked away from that camp, put on a train and we -- several days we rode on the train toward north.

Q Going north?

A North, yes.

Q The train eventually came to a stop?

A Yes.

Q In what area?

A A special prison camp.

Q Where?

A Kisela.

Q Kisela?

A Yes.

Q Where is that?

A In the north Urals. In the Ural mountains.

Q In the northern Urals?

A Yes.

Q Were you treated any differently here from how you had been in the camp near Moscow?

A Oh, yes, much, much differently than that.

Q What kind of a camp was this?

A Political prisoners camp.

Q Not a prisoner of war camp?

A No.

Q Was it an open camp? That is, was it behind barbed wire?

A Yes.

Q But you had to work, didn't you?

A Yes.

Q You had to do forced labor?

A Yes.

Q How many hours a day?

A Twelve hours a day.

Q Now, had you been declared an enemy of the state because they had identified you from your prior anti-Soviet activity?

A No.

Q Just because you were an Estonian?

A Yes.

Q And was this a change of policy?

A No, that had been the policy all the time.

Q When they first captured you, you had an Estonian flag on your sleeve, didn't you?

A Yes.

Q Why didn't they declare you an enemy of the state then?

A Well, probably that was at a gathering point where they made the decisions.

Q But you had been in this camp near Moscow from mid-September to December?

A Oh, yes.

MR. STANFORD: This is speculation on his part since this was not within his knowledge.

BY MR. CONNOLLY:

Q Did they explain to you why all of a sudden Latvians and Lithuanians and Estonians who were in German uniform became state enemies?

A We presumed that that was the reason.

Q Did you make any protest?

A What protest?

Q Did you?

A What protest can you make there? The Soviet Union is not like the rest of the world.

Q But did you protest to your captors that you were a German officer and was entitled to be treated as a German prisoner of war?

A I didn't say I was a German officer. I said that I was an Estonian officer.

Q But you had served in the German Army?

A That doesn't count.

Q Did you tell them that you had been repatriated to Germany because of your German ancestry?

A No, not this time, no. They didn't question me.

Q You never volunteered that?

A No.

once

Q Not/when you were declared a state enemy did you claim for protest that you were not Estonian but were German?

A No, no.

Q Were there other officers in this camp in the northern Urals?

A There were some Norwegian officers. Not Norwegian -- one Swedish officer.

Q Swedish officer?

A Yes.

Q How in the world did he get to northern Ural?

A In German Army there were many Swedes.

Q Had he been in the German Army?

A Yes.

Q Was this your friend?

A No.

Q Do you know his name?

A No, I don't recollect.

Q It must have been odd to see a Swedish officer in the northern Urals in a political prison camp, wasn't?

A Yes, it was indeed.

Q Do you know how he got there?

A He was -- he became a prisoner of war some place in Czechoslovakia and then was first, as he told, in a prisoner of war camp and then he was brought to that special camp.

Q Have you ever seen this man since?

A No.

Q How long did you stay in this camp in northern Urals?

A Until March, I think, --

Q It must have taken a couple of weeks to get there?

A No, a couple of days.

Q A couple of days?

A Yes.

Q Did Napoleonus Cernius go to the same camp?

A Yes.

Q Did the Latvians also go to the same camp?

A Yes.

Q Do you remember their names?

A One was a colonel. I don't remember his name. When I came over, then I told the Latvians about it, then I remembered that name, but now I don't recollect it.

MR. RASKAUSKAS: Laprita?



THE WITNESS: I don't recollect his name.

BY MR. CONNOLLY:

Q During the three months you were there, what happened to you?

A I got weaker and weaker every day, because we worked twelve hours a day without --

Q Doing what?

A That was a coal mine.

Q Gold?

A Coal mine.

Q (Spelling) G-o-l-d?

A Yes.

MR. RASKAUSKAS: Coal, black coal?

THE WITNESS: Yes.

MR. CONNOLLY: I said "gold" and I spelled it and he said "Yes".

MR. RASKAUSKAS: An old coal mine?

THE WITNESS: Black pearls.

BY MR. CONNOLLY:

Q This was an old coal mine?

A Yes.

Q Is wasn't strip mining?

A No.

Q You went into the earth itself?

A Yes.

Q What kind of coal was it?

A Black coal.

Q Was it hard or soft coal?

A Hard.

Q Hard coal?

A Yes.

Q Did the Russians have tipples?

A I don't know.

MR. STANFORD: Do you know the meaning of the  
word?

THE WITNESS: No.

BY MR. CONNOLLY:

Q Did they have machinery to separate the coal  
as it comes out of the mines?

A We did it by hand.

Q They did it by hand?

A Yes.

Q Did you size the coal by hand?

A Pardon?

Q Do you know what I mean by "sizing" coal?

A Yes, by hand.

Q They did it by hand?

A Yes.

Q Did you work underground or above ground?

A A few weeks only underground and after that above ground.

Q Did you work on the mine face?

A When?

Q Well, you tell me when?

A Mine face, what do you mean?

Q The coal face.

A Oh, yes.

Q What did you use?

A A pick.

Q Was there any blasting, powder, dynamite used?

A Oh, yes, sometimes.

Q Did you use that?

A No.

Q Were there any attempts to propagandize you in this anti state camp?

A Only these loudspeakers on the wall. Every barrack had -- every one of these buildings had these. That was the only propaganda.

Q I was going to ask you about the buildings. What

kind of housing did you have.

A Half way underground. Only a roof and the rest of the room was underground, dug down, "semljanka" they called it, underground.

Q How many people in one of them?

A About two hundred.

Q All underground?

A Yes.

Q All men?

A Yes.

Q You stayed here three months?

A Yes.

Q Was any other punishment meted out other than forced labor?

A Cold bunks, and beatings.

Q What was the beating given for?

A When you couldn't work fast enough as these superiors wanted and when we didn't please them and so on.

Q Did you have many beatings?

A Oh, yes.

Q What? With straps?

A Mostly wood sticks or with rifle butts.

Q Did they leave any scarring?

A I don't recollect that.

Q While you were in this camp, did you undergo any interrogation?

A No.

Q No interrogation?

A No. May I say something? When we came to the camp, the commander of that camp told us that "You are here because we build on your bones -- we build up on your bones the Communist order".

Q At the end of the three months, where did you go?

A I escaped from that camp.

MR. CONOLLY: I will pick up there tomorrow morning.

(Whereupon at five ten o'clock, p. m., the hearing was suspended till Tuesday, March the Second at ten o'clock, a. m.)

- - -

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

-----X  
:  
ERIK HEINE,  
:  
Plaintiff,  
:  
vs.  
:  
JURI RAUS,  
:  
Defendant.  
:  
-----X

Civil Action No. 15952

Washington, D. C.

Tuesday, March 2, 1965.

Deposition of:

ERIK HEINE,

the plaintiff (resumed), called for examination by counsel for the defendant, pursuant to recess and agreement of the parties, in the offices of Hogan & Hartson, Esquires, 800 Colorado Building, Northwest, Washington, D. C., 20005, beginning at ten o'clock, a. m., before George M. Poe, Jr., a

Stewart & Poe, Inc.

BOND BUILDING, 1404 NEW YORK AVENUE, N. W.  
WASHINGTON, D. C. 20005

Notary Public in and for the District of Columbia, when were  
present on behalf of the respective parties:

For the Plaintiff:

ERNEST C. RASKAUKAS, ESQUIRE  
and  
ROBERT J. STANFORD, ESQUIRE

For the Defendant:

HOGAN & HARTSON, ESQUIRES  
BY: PAUL R. CONNOLLY, ESQUIRE  
and  
E. BARRETT PRETTYMAN, JR., ESQUIRE

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EXAMINATION BY:

WITNESS

MR. CONNOLLY

ERIK HEINE

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P R O C E E D I N G S

MR. RASKAUSKAS: I would like to start by putting a correction on the record in Mr. Heine's testimony yesterday.

The witness would like to correct a statement that was made on the record yesterday when Mr. Connolly propounded a question concerning Mr. Elmar Keerg, and alluded to him as "your old school friend."

THE WITNESS: My good friend.

MR. CONNOLLY: Would you like to correct your answer?

THE WITNESS: I did never know Mr. Keerg at that time when I was a boy, but began to know him when I came to New York the first time.

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THEREUPON,

BERIK HEINE,

the plaintiff, having been previously sworn by the Notary Public, further testified as follows:

EXAMINATION BY COUNSEL FOR THE DEFENDANT (Resumed)

BY MR. CONNOLLY:

Q Mr. Heine, is your testimony the first time you knew Mr. Elmar Keerg was when you came to New York?



A Yes.

Q You did not know him as a boy in Tartu?

A No.

Q Did you not so testify last Saturday?

A No, I don't think so.

Q Did you know of him when you were in Tartu?

A No, I don't think so.

Q Have you found out he lived in Tartu when you lived there?

A Yes. When I was in New York the first time, then he looked me up and told me that he had heard about me and known me through his best friend, Mr. <sup>Jurisaar</sup> Juri Sarv, who was my direct superior in that underground movement in Tartu.

Q Since you have first met Mr. Keerg, he has become one of your closest associates --

A Yes.

Q --in North America, has he not?

A Yes.

Q Have you since learned about what he did during the Soviet Occupation of Estonia in 1940 and '41?

A In that period I don't know much, but he told me that in 1940 he was some judicial aide-de-camp for our late president, Mr. Pats, Mr. Constantin Pats.

Q Has he told you that he was a lawyer in Estonia?

A He was a judge, I think, a young lawyer preparing to become a judge, or something like that.

Q Has he told you that he was a People's Magistrate appointed by the Soviets?

A I think he mentioned that, yes.

Q Does this disturb you at all about your relationship with him?

A No.

Q Why not?

A Because many people who fell under the Soviet Occupation had to try to stay alive, and many -- they were there a couple of months or so -- had to work and be there with the Soviets at this time, but --

Q When the Soviet Occupation ended and the Germans occupied Estonia, weren't such people known as collaborators?

A No; not all. When they had really collaborated with the Soviets, then they were named collaborators.

Q What is the difference between a person who accepted the position as People's Magistrate under the Soviets, under Soviet appointment, and a real collaborator?

A When somebody works really for the Soviets, the Soviet authorities.

Q Wasn't a People's Magistrate working for the Soviet authorities?

A No. When he could find ways and means to get away, to avoid serious confrontations and then trouble.

Q He was enforcing Soviet law in Estonia, wasn't he?

A I don't know that. I can't tell about that.

Q Was he meting out punishments for anti-Soviet activity?

A I don't know what he did this time.

Q Maybe it's because my Irish grandparents have a hardy memory of these events, but I am still intrigued -- have you been able to think of the name of the boat that you came over to Canada in?

A No; really not. I have tried very hard.

Q And you don't know whether it was under British or American registry, or what registry it was under?

A There was a Greek crew, most of the crew was Greek, but --

Q Greeks are on every ship flying any registry any place in the world; Greeks and Hindus.

A That is easy to trace down; that is very easy to trace down.

Q It is?

A There are records that I was there as a passenger.

Q There are what?

A That I was on that ship as a passenger.

Q How do we find that out?

A You ask from all the European ship lines, and then they search for my name. You have the money and means.

Q I have the money and means?

A Oh, yes.

Q How do you know that?

A Because of these four days that I am here already; that costs a lot of money, I think. You have to have money.

Q You have been here for three days?

A Yes. And maybe two more; and then maybe day after tomorrow.

Q Does this mean I have money?

A I don't have not a penny.

MR. RASKAUSKAS: I object.

BY MR. CONNOLLY:

Q Where are you staying while you are here in Washington?

A I was yesterday in the EMCA(sic).

MR. RASKAUSKAS: YMCA.

THE WITNESS: YMCA; that is the most I can afford while I am here.

BY MR. CONNOLLY:

Q Where were you the day before yesterday?

A By Mr. Tusk.

Q In Pasadena?

A Yes.

Q Did you see Kuhlman?

A Yes, I saw him.

Q Sunday?

A Yes.

Q Where did you stay Saturday night?

A By Mr. Tusk.

Q Where are you staying tonight?

A When I have to be here tomorrow, I am staying at the YMCA.

Q At the conclusion of yesterday's session I believe that you were telling me that you had been in a camp for political prisoners in the northern Urals mining coal, and the name of the town was Kisel?

A Yes.

Q And this morning you now have found this on the map which we have here, which is a map of the Western Soviet

Union compiled and drawn in the Cardiographic Division of the National Geographic Society, and I will see if it has a number on it.

(Counsel consults map).

It bears no serial number that I can find, but it bears a copyright of Washington, 1959.

Do you know what I mean by the term coordinates?

A Yes, I do.

Q I am going to circle it in red and ask you, and see if it does not have D-13, and Mr. Prettyman will show it to you.

be  
This would/Latitude, approximately, 64 degrees north and east Longitude, approximately, 58 degrees?

A Yes.

Q You were taken to this camp in late December 1944?

A Yes.

Q How long did you stay there?

A Until March; the beginning of March.

Q Three months?

A Yes.

Q And during that time you were put to work mining coal?

A Yes.

Q And you lived in a hut with about 200 men in it?

A Yes.

Q Your close friend at the time was <sup>Napoleonus Cernius</sup> Napoleanus  
Cerrius?

A Yes. He called himself that, <sup>Cernas</sup> Calnas, because  
as I have done, he had done that, too, because he was a son  
of a Lithuanian general, and then he didn't want to --

Q Have that known?

A Yes; his real name.

Q And you were still going under the name of H-E-I-N  
(spelling)?

A Yes. That means in Estonian, grass.

Q Grass?

A Grass; yes, green grass.

Q And I understood you to say also that you were  
not given any Soviet indoctrination there; the only  
thing that existed was a loudspeaker system that was installed  
in the huts that constantly blared out news and propaganda  
material?

A Yes.

Q But you were not given any active propaganda  
course?

A No. What they wanted from us was only work and

work.

Q And you were not subjected to any interrogation, intelligence interrogation at all?

A No.

Q Now, what happened at the end of March? Where did you go then?

A During that three months in that camp we both began, Cerrius and I, we both began to realize when we stay here longer, then we die anyway because, for example, when I got in that camp there were 800 prisoners, and during these three and a half months, about 270 or 300 stayed alive; other prisoners all died, who have been there longer than we were.

Q Were their numbers replaced?

A Yes; replaced all the time came new contingents in.

Q How do you know that these people died?

A I saw them die, and I have carried them myself out.

Q So, you and Cerrius did what?

A We decided to try to escape.

Q How much security was there in this camp?

A You maybe don't know how that camp is guarded.

(Witness draws rough sketch of prison area).

It's barbed wire, three or four barbed-wire fences.



Q In depth?

A In depth. In every corner there were watchtowers; and then there are in watchtowers, there are posts with tommy-guns and searchlights; and outside of that a fence.

Q Outside the fence perimeter?

A Yes; there are sometimes dogs tied down, and they can watch here, too. That's about all in that camp.

Q Did any guards live in the huts with you?

A No. They have outside, they have their own barracks or these buildings.

Q Were there any pro-Soviet people living in the hut?

A I think so. Yes, for sure, then they used that system very, very frequently; that is a rule.

Q What is a rule?

A That they infiltrate the masses of prisoners with spies, and we called them cows.

MR. PRETTYMAN: C-O-W-S (spelling)?

THE WITNESS: Yes; who give milk, you know.

BY MR. CONNOLLY:

Q So you and Calnas decided to plan an escape?

A Yes.

Q Did you escape?

A I did escape.

Q Did Calnas?

A No.

Q What happened to Calnas?

A He was too weak. You know, the first months --

Q You mean he was too weak -- was he captured?

A No.

Q He just never tried?

A No. He never tried because he was too weak.

Q So you tried alone?

A He helped me through that fence, yes.

Q Then he stayed behind?

A Yes.

Q Did you ever hear what happened to him?

A No.

Q How did you escape?

A In the March or so, in the month of March there are in Russia and even there in Estonia the last big snow storms, and we figured that that would be the best time to escape.

Q Why?

A Because the snow storm is so mighty and so heavy that blowing snow covers all, you know; they, the searchlights, can't reach too far, and all is covered with snow; and you leave

no marks on the ground when you go through snow; it covers your steps.

Q It covers your tracks?

A Yes; it covers your tracks.

Q But this makes it difficult to get food during the trek, doesn't it?

A Oh, yes.

Q Tell us now how you escaped. I interrupted you; you said you waited until the latter part of March because in this part --

A No; not latter part, the first part of March when they began.

Q When the most heavy snow storms occurred in this section of the Urals?

A Yes. A couple of days it lasted, and then at night when it was at that height, I think it was at the height of that storm, we approached with Calnas, these fences, and I crawled through these barbed-wire fences, and said, "Calnas, help me to go through the first one," and then we passed it and he went back.

Q How many fences were there in depth?

A Four.

Q Were any of them wired with electric energy?

A No.

Q Just barbed wire?

A Yes.

Q Were the wires cut, or did you go under them?

A No. We didn't have cutters.

Q You went under the fences or over them?

A Under the fences; we lifted them up, and then crawled through.

Q So you went under the bottom-most wire; is that right?

A No. The snow was so high that it was maybe -- it was snowed in so that half of that fence was under snow, and half was over snow, so in the middle, maybe.

Q What kind of clothing did you have?

A When I went there into that camp I had German overcoat and German uniform, but I traded these for Russian clothes, called puschlach (sic); that is not heavy, but it's linen covering inside with cotton, you know, with the stripes down.

Q Where did you get the German overcoat?

A I was in the German Army.

Q And you were wearing a German overcoat when you were captured?

A No. They gave me that in Pitseri, the central prisoner of war camp.

Q Is that the one near Moscow?

A Yes. When we were shipped out toward Leningrad and then I was taken out from the train and shipped to Moscow.

Q What is the name of that camp that you wound up in near Moscow?

A I don't really remember.

Q What is the name you just used a few minutes ago?

A Petseri.

Q How do you spell it?

A P-E-T-S-E-R-I (spelling).

Q Where is Petseri?

A Oh, yes. I hope that it's here on that map ( indicating). That is in Russia now.

Q When were you there?

A I believe in the beginning of September when we were released from that concentration camp there.

Q You were captured at the end of August, I think you said, August 29th; and I think you said there were a couple of days that you were there?

A Yes.

Q You were given an overcoat there?

A Yes; there in Petseri, and a Finnish Army cap.

Q By whom?

A By the Russians.

Q What happened to the cap you were wearing when you were captured?

A I had no cap; I had a helmet on.

Q A steel helmet?

A Yes.

Q And you did not have a soft cap?

A I had; but when that battle began, I left that by my -- how can I describe that? -- cars with ammunition and then food.

Q What kind of markings did your helmet have on it?

A SS.

Q Anything else?

A No.

Q Is it cold in Estonia?

A Oh, yes.

Q -- in the beginning of September?

A Yes, it's quite chilly.

Q Chilly enough to wear a heavy overcoat?

A I didn't wear it; I was given the heavy overcoat.

Q German?

A I was given a German overcoat, yes.

It was a soldier's overcoat; not a heavy overcoat.

Q That is what you had through the winter in Moscow?

A Yes.

Q And that is what you had when you were in Kisel?

A Yes.

Q Mr. Prettyman suggests that I ask you whether it was an officer's overcoat. I understood you to say it was just an ordinary soldier's overcoat.

A Yes.

Q You traded this overcoat, you say, for some Russian clothing?

A Yes.

Q How about boots?

A Boots, too.

Q You traded your German officer's boots?

A I didn't have German officer's boots, but ordinary soldier's boots.

Q You traded those for what kind of boots?

A That is now very difficult to spell it. The Russians used some special boots for winter. These are made out of --

Q What are they called in Russian?

A In Estonian they are called "vildids." I don't

Q Spell that, please?

A Yes; V-I-L-D-I-D (spelling).

Q Is there a Russian term for it?

A Oh, yes.

Q What is it?

A I don't know now. Oh, yes; V-A-A-L-I-N-K-I, (spelling).

Q Did you have any other item of clothing on your person that would identify you as a German soldier?

A I didn't trade that sweater, German Army sweater what I had.

Q No insignia on that, however?

A No.

Q How about your shirt and trousers?

A These at that officers' place by Moscow there I was in light winter -- summer underwear -- and there they gave us long underwear in that officers' place.

Q You were captured and you had a summer field uniform on, did you not?

A Yes.

Q Did you still have the summer field uniform with you?

A How could I have that?



Q I am asking you; did you?

A No.

Now, I understand. Oh, yes; sorry.

Q Let me put the question to you again:

When you were captured, you were wearing a summer field uniform, were you not?

A Yes.

Q Did you still have the summer field uniform when you went to the camp near Moscow?

A Yes, I had.

Q You had a summer field uniform?

A And that overcoat.

Q And a soldier's overcoat?

A Yes.

Q You were not issued winter clothing?

A No.

Q When did you get winter clothing, or did you ever get it?

A No.

Q So, when you came to escape from the camp in the Urals, you had when you began to plan your escape, you had a German soldier's overcoat?

A Yes.

Q And you had a German summer field uniform?

A Yes.

Q And you were able to trade these for Russian clothing?

A Yes.

Q Now, where did you get the sweater?

A I had that when I was in that battle; I had that sweater on. That is a very thin thing.

Q Now, when you escaped, you had Russian boots on; you had a Russian -- was it like a cape?

A No.

Q What kind of overcoat did you have?

A Like a jacket.

Q What kind of pants did you have? Did you still have your German officer's pants on?

A No. I traded all my uniform.

Q For what?

A For Russian winter clothing.

Q Who did you trade it with?

A In that mine there worked civilians, too, and German material was very high price there.

Q It was in demand, was it?

A Demand, yes.

Q So, you had no problem trading this for, I guess it was peasants' clothing, was it not?

A Yes; peasants. There are millions and millions of characters who wear that kind of clothing.

Q Now, you had four fences to go through before you got clear of the camp?

A Yes.

Q Was the barbed-wire on the fences strung several levels in a horizontal position?

A No; it was this way (indicating).

Q So there would be several levels, horizontals and then a couple of diagonals?

A Yes.

Q This was not an electrified fence?

A No.

Q While Calnas would hold the wire apart, you went through?

A Yes; the first two.

Q And then you would help him through the first two?

A No; he stayed only at the first one, and then he went back.

Q He didn't help you through the second one?

A To the second, too, yes; and further on I went alone.

Q So he went as far as the second fence with you?

A Yes.

Q And then went back?

A Yes.

Q And you went on?

A Yes.

Q Was it snowing at the time?

A Blowing.

Q Did you have any gloves?

A Yes, I had.

Q Where did you get those?

A That camp, that political prisoners' camp gave it for working gloves.

Q You mean this one in the Urals?

A Yes.

Q Were the guards alerted by this escape?

A No.

Q Did the dogs put up an outcry?

A No.

Q How cold was it?

A It was about maybe -- not very cold. We had no

thermometer; I don't know exactly how cold it was, but not very cold.

Q It was cold enough to be snowing?

A Oh, yes.

Q And it was cold enough that the temperature probably dropped because of the blowing wind, did it not?

A I did not understand you.

Q The wind was blowing, was it not?

A Yes; very strong.

Q What time of night was this?

A It could be about 11 or 12 o'clock.

Q That is your best estimate of the time?

A Yes. We had no clocks, no calendars, nothing there.

Q There wasn't any moon?

A It was blowing.

Q And snowing?

A Very heavily.

Q Now, when you got clear of the fences, where did you go?

A As far as I could until my strength held out. There was a nearby forest, and I went maybe a couple of miles through snow to that forest, and then I couldn't go any more.

I took myself a snow house, and then began to wait until that snow storm ended.

Q What do you mean "you took yourself a snow house"?

A I have to explain:

To survive in winter in extreme conditions, you have to protect yourself against the cold wind, that is the main thing, and to build a snow house you shovel with your hands -- I had no shovel -- with your hands you shovel a big heap of snow together, and then you take the ground a hole in that, and make it so that you can get in and be protected from the wind.

Q You build this without water?

A Sure.

Q What do you do to keep the snow from blowing away?

A It was in the forest; the wind was not so heavy.

Q There were no leaves on the trees, were there?

A Pardon?

Q No leaves on the trees, are there?

A Mostly evergreens.

Q And that breaks up the wind?

A Oh, yes.

Q So you can take the snow and make a pile, and you

dig a hole in the pile?

A No; from under, so that you have protection from the wind. The wind doesn't blow directly on you.

Q You get your whole self inside this snow heap?

A Yes; almost.

Q What sticks out?

A Oh, maybe the feet.

Q How do you breathe?

A There is air inside.

Q How does the air get in there?

A If I may say so, that is a very funny question, but I will gladly answer you:

You have no doors or covers to shut that thing and make it airtight; it's only cold in a snow heap, and there comes plenty of air in. You are only protected against the wind.

Q This isn't a powdery snow, I take it?

A (No response).

MR. RASKAUSKAS: It's not a powdery snow (indicating)?

THE WITNESS: No.

BY MR. CONNOLLY:

Q It's a damp, wet snow?

A Not especially damp, because -- why these big storms, they begin or start the weather is changing, it's not freezing; it's not thawing; and then you can really make some sort of cover for yourself.

Q So, in the middle of the night you built this snow cover for yourself in the forest a couple of miles from the camp, and you stayed there until the wind died down and the snow storm was over?

A Yes.

Q Now, how long did that last?

A A day or two.

Q What?

A A day or two.

Q A day or two?

A Yes.

Q You had nothing to eat?

A I had some frozen potatoes saved from that meager food what we got from that camp; I have saved for the journey, and some 200 grams of bread, or 400 grams of bread with me.

Q The potatoes were frozen?

A In Russia it's total mismanagement everywhere; for example, the food and products for a camp or even for civilian population, they are brought in by train or cars, or something,



and they don't bother to store them properly; they only shovel it over the side on the ground; and then snow falls on it, and it freezes; and then again snow; and that kind of potato was our main food, they are frozen through.

Q The potato was frozen, was it?

A Yes.

Q So, the temperature --

A Excuse me. I used that frozen potato because we were given food, mostly frozen potatoes, but to make them edible, it was a method amongst prisoners to cut, to cut these potatoes up so that they become soft, and then slice them into thin slices, and then bake them against the ovens in these barracks which were mostly gas drums -- 50-gallon gas drums.

Q With a flue?

A With a vent through the ceiling, and that was red hot, and then you baked these slices against that hot stove, and then they are -- somehow you can eat them, somehow.

Q Did you cook these potatoes in the forest?

A No. These were cooked already there when I was in camp, back in camp.

Q So, they were no longer frozen?

A No.

Q Did you have a map with you?

A No.

Q A compass?

A No.

Q And after two days you came out of the forest?

A That was a coal-mining town, and nearby was a railway, and after the weather got better, they cleared that railway and the trains began to roll again, and then the next night I jumped a coal car and went by train a couple, maybe 100 or 150 miles the first time.

Q In which direction?

A Molotov; now it's called Perm. They have changed the name. At that time it was Molotov.

MR. PRETTYMAN: (Gives map to the witness).

THE WITNESS: I went here (indicating).

MR. PRETTYMAN: You went south?

THE WITNESS: Yes; that was called Molotov.

BY MR. CONNOLLY:

Q P-E-R-M (spelling)?

A That's what it is called now; they changed it a couple or three years ago.

Q Only after the Stalin regime fell, right?

A No. He was in great honor of Stalin; when Krushchev came in power, all that territory was then named to Molotov; Oblast -- that was called the District of Molotov.

MR. CONNOLLY: Is it marked?

MR. PRETTYMAN: You want to circle that.

THE WITNESS: (Complies).

BY MR. CONNOLLY:

Q Did you have any papers with you?

A No.

Q Nothing to identify you whatsoever?

A No; nothing.

Q You were able to speak Russian fairly fluently?

A Fairly, yes.

Q Were you challenged at all on the way?

A Oh, yes.

Q When you came out of the forest, you must have stayed in the forest until the snow was over?

A Yes.

Q How did you know the railroad had been opened up?

A Because it was nearby, not maybe a mile or so from that direction where I overnighted.

Q Could you hear the trains or see them?

A Oh, yes.

Q So, once you heard the trains in motion, you decided to go toward the railroad?

A That was the original idea was to try to get to the railway to Molotov, and from there west; and go over near where the railways were and take the train, if possible, and go back to my homeland.

Q Back to Estonia?

A Yes.

Q Why were you going to Estonia?

A I have heard when I was by that Moscow officers' campe that, from German officers, in Estonia there is a very big guerrilla movement, and I -- you know, with the war ended then for me and for many of my compatriots the world broke down because that we thought means the end of our nation under the Russian yoke. When I heard these things, these German officers talking, then I began again to awake, to live again; you can say that. I decided that whenever possible, I would try to escape and join these forces here in Estonia.

Q The guerrilla forces?

A The guerrilla forces, yes.

Q This was in March of 1945, we are now speaking about?

A Yes.

Q You knew, for all practical purposes, by this time

the Russians had lost the war, at least on the Eastern Front?

A No; not this time.

Q The Germans, I mean.

A Yes; the Germans, yes.

Q The Germans. I misspoke myself.

You knew by this time that for all practical purposes the Germans had lost the war, at least on the Eastern Front?

A Yes.

Q And the Third Reich was rapidly coming to a collapse?

A Yes; that we know, yes.

Q But you decided to break out of this prison camp in the Urals and head for Estonia to join the guerrilla movement?

A Yes.

Q You had no papers?

A No.

Q When you got aboard the train, I take it, where did you ride in the train?

A In a boxcar, it's called, I think so; full of coal.

Q They don't ship coal in boxcars.

A Open boxcars, yes.

Q Gondolas?

A Maybe, yes; I don't know that exact term.

Q It was an open car in which the coal was dumped from the top?

A Yes.

Q Did you have any money?

A No.

Q And you rode inside the car?

A Yes.

Q Was there coal inside the car?

A Terrible.

Q There was coal inside the car?

A Yes.

Q You rode on top of the coal, I think?

A No; I dug myself in.

Q You dug yourself in?

A Yes.

Q Did you have any food?

A What I had -- these few potatoes and 400 grams of that bread.

Q After a couple of days in the woods, you must have eaten most of that up, had you not?

A I had very little left, yes.

Q You didn't get any when you were riding in the coal pile, did you?

A No.

Q And how many days were you aboard the coal train?

A Maybe a half a day or so.

Q A half a day or so?

A Half a night, let's say.

Q And you got to a place that was called Molotov?

A Not at once, no.

Q Where was the first stop?

A I don't know where. I was riding on that coal car, and it was so horrible and so cold that it came a moment where I was afraid I would freeze to death, and then I jumped out.

Q And that was when you were near Molotov?

A Yes. How near, I don't know.

Q I understand. But the first time you got off the train was near Molotov?

A Yes; somewhere, someplace; yes.

Q You had not been challenged up until this time, had you?

A No.

Q When you got out, you were in a town near Molotov?

A Not town; there was no town.

Q Open country?

A Not open country; woods and hills.

Q That's open country, isn't it?

A Yes.

Q No villages?

A No; not in this.

Q It was cold?

A Not especially, no.

Q Where did you go?

A I went on foot then along that railroad track.

Q Till you came to a village?

A Not a village; there was a station, some small station.

Q And what happened when you came to that?

A I took there -- what comes now only you have to understand that. When a person is very hungry and near death by hunger, then I believe and think that everyone makes the utmost to get food, and so on. And then I began my trip with stealing and robbing to get food and get --

Q Where? You got to the station? Did you steal food in the station?



A Yes.

Q How come there was food in the station?

A There were many people, passengers were there. They were waiting for a passenger train.

Q And they had food with them?

A No. I thought that they had it there, yes, and the sacks what they had.

Q You must have been awfully filthy dirty riding in a coal pile for a day?

A To make the picture clear, all Russians was filthy and dirty like hell, and it was then and now, and I didn't differ in any way from ordinary civilian persons.

Q But you had been riding in a coal pile. You must have been covered with coal, weren't you?

A Yes. I thought about that, too, and I stole from that place a big oil can and pretended to be an oiler or so, you know.

Q Now, when you got to the station, did you steal any food?

A Yes, I stole.

Q From whom?

A An old man who was there.

Q And you took his food?

A Yes.

Q Did you run?

A Oh, yes.

Q Did the people run after you?

A There was confusion, yes, but --

Q Where did you run to?

A From that station away, and I went again, you know,  
on foot.

Q Where did you run to, to the town?

A No. There wasn't a town; a couple of houses only.

Q There was a station there, wasn't there?

A Yes.

Q And there were some people there with food?

A Yes.

Q Where did they come from?

A That must have been some mining town nearby, some  
place; in that vicinity there was nothing only a couple of  
houses and that station.

Q Did you break into any of the houses?

A No.

Q Did you seek to break in any of the houses?

A No.

Q But you took a package of food from an old man?

A Yes.

Q And you ran?

A There wasn't wasn't much to have, and everybody had very little to eat at this time in Russia.

Q But you ran away? Did you run? Did you follow the tracks?

A Yes.

Q So, you ran down the tracks?

A Yes.

Q Away from the direction from which you had come?

A Yes.

Q So, you were going south again?

A Yes.

Q All right.

Now, what did you do?

A Then, I went back on foot sometime -- how long it was, I don't know -- but in the evening I remember that I caught a passenger train.

Q This experience of robbing an old man must have upset you?

A Very.

Q You had never done anything like this before in your life?

A No; never.

Q What time of day did it take place?

A I think it was early in the morning.

Q So you walked the track all day?

A Not all day. I rested, and then went again; and then for the record, in this region daylight is only maybe four or five hours at this time.

Q So you rested and walked some?

A Yes.

Q Did you have any encounters with anyone? Did you meet anyone?

A Not this time.

Q And when darkness came, you sought to get a ride on a train?

A Yes.

Q Did you?

A Yes.

Q What kind of a train?

A That was a passenger train.

Q Did you ride inside the car?

A No.

Q Where?

A On the platform. You couldn't get inside because

all trains were so full of people; they were on roofs, on these platforms and doorways and every possible place. Millions and millions travelled all over Russia to seek for food and who knows what.

Q There was no attempt to collect fares, I take it?

A I think it was impossible, yes, to do this on this occasion.

Q I beg your pardon?

A I think it was impossible on this occasion to collect something.

Q Where did you catch this train?

A At the next station.

Q So you walked to the next station?

A Yes.

Q Do you remember the name of that station?

A No.

Q Or do you remember the name of the one where you robbed the old man?

A No.

Q You were still wearing your same clothes?

A Yes.

Q Still filthy dirty?

A Yes.

Q Still covered with coal dust?

A Oh, yes.

Q You still had your oil can?

A Oh, yes, all the way. I didn't leave that until the last moment. That was the best cover I ever had in my life.

Q Now, where did you go then?

A Pardon?

Q Where did you go when you caught this passenger train?

A I think before Molotov then, I jumped off again, and then from Molotov I --

Q You jumped off before the train got to Molotov?

A Oh, yes.

Q Didn't the train stop any place, at checkpoints, where soldiers or NKVD, or other security forces checked the passengers?

A No; not this time.

Q It did not at all?

A No. For the record again, as I said earlier, that Russia at this time was in utmost confusion there. I am sure you can't understand these conditions, but when you have seen that with your own eyes, you can only say that it was

the utmost confusion in every aspect; no order; nothing; only raw force rules there, I think.

Q Now, when you jumped off the train just prior to Molotov, what did you do then?

A I went on foot to Molotov, not directly in, but tried to bypass Molotov in a westerly direction.

Q Did you?

A Yes, I did.

Q How did you get food?

A I robbed.

Q Who did you rob the second time?

A There were some civilians near Molotov, and I robbed a suitcase, plywood suitcase.

Q You took it away from them?

A Yes.

Q By force?

A Yes.

Q Did you knock them down?

A No. It was they waited in the station for a train, and the train was there, and I went under and stood in the station -- I went under the car -- and when they reached their children through that window, these doors were all blocked full of people then, I caught or put his suitcase down and I

got it under the car, and then I ran.

Q Did the people come after you?

A There was much commotion, and then shouting, but nobody came after me. That was usual, robbing and stealing; and that went on all over that thing there. It was common-place.

Q Was there food in the suitcase?

A A little bit, yes.

Q Any clothing?

A I don't remember. Yes; some rags.

Q Nothing you could use?

A No. Mostly always what I got was potatoes, and some raw bread, and only a couple of times, I think I got some meat, some little meat.

Q Now, at this time, how many days are you out of the political prisoner camp in the Urals?

A I think about a week already.

Q And about how far are you away?

A That is very difficult to say. I went on foot and rode, and that I know lasted about until mid-April, until I got near Leningrad.

Q Well, let's stick with Molotov.

Did you bypass or skirt around the edges of



A No.

Q You had not been asked for any papers?

A No.

Q Every time you robbed, did you rob just for food?

A Yes.

Q When you got around to the west side of Molotov --

A Sorry; I am interrupting you. I thought we are speaking already on the west side. I got there long ago already.

Q Did you get a train there?

A Yes.

Q How did you know what train to get?

A The stars showed me the way.

Q What do you mean by the "stars"? The stars in the heavens or the sun?

A Surely you know that you can pick your direction by the stars.

Q By the sun, too?

A Yes, but the sun; I am not so at home, but I am by the stars.

Q At any rate you know that you wanted to go west?

A Yes.

Q And you boarded a train?

Molotov?

A Yes. I tried to do that.

Q You picked up the westbound rail tracks?

A Not at once; I went on foot first, I think, as I remember.

Q Did you break into any houses?

A No. I didn't break nowhere into the houses.

Q Had you acquired any weapons by this time?

A No.

Q No gun or no knife?

A No.

Q Did you engage in any more robberies?

A Yes.

Q Where again did you rob?

A All the way, every maybe third, fourth, or when the food run out, and I have been a day or two without nothing, then I had to try again.

Q Did you eventually get around to the west side of Molotov?

A Oh, yes.

Q At no time yet had you been challenged?

A No.

Q Not asked for you identification at this time?

A Yes.

Q But when the train pulled out of Molotov, did you know whether it was going to go west or go west for a short distance and turn south, or go west for a short distance and turn north?

A By passengers; we were in conversation, and that they told me, "That goes to Molotov." This they told me when I asked where that traingoes, and that's very easy to be given.

Q So you had a little help besides the stars, didn't you?

A Oh, yes.

Q Namely, you asked questions, "Where is that train going to go"?

A Yes.

MR. CONNOLLY: Let's take a brief break.

MR. RASKAUSKAS: All right.

(Whereupon, by agreement of counsel, a brief recess of the deposition was taken).

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MORNING SESSION - PART TWO

MR. CONNOLLY: Back on the record.

BY MR. CONNOLLY:

Q And you told us just before the break that you had gotten some help from some passengers as to what train to take?

A Yes.

Q Did you board a train at the station?

A No. Sometimes at the station and sometimes on the way, when it got uphill, and then I jumped the train.

Q And this train still had people hanging off the sides and riding on the roof?

A Some of them; yes.

Q Nobody collected any tickets?

A No; not this time.

Q How do the railroads run in Russia, without anybody collecting tickets?

A Yes; they run that way, and when patrols came to check papers, then I tumbled out of that train, or when I was on the train --

Q So, up until you boarded this train in West Molotov, you hadn't been checked?

A No.

Q The train hadn't gone through any checkpoints, had

it?

A No.

Q And by walking the tracks you hadn't come across any checkpoint?

A No.

Q Now, when you boarded the train at West Molotov to go west, did anybody board the train to check papers or collect tickets?

A I hope that I said that right, but I had to jump off the train maybe three or four times only when these checkers came through the train.

Q When?

A About in the middle of my journey maybe; that was the end of March and the beginning of April.

Q I am trying to find out, up until you boarded the train in West Molotov, you hadn't had to do this?

A No; no.

Q Now, the train you got on in West Molotov, that started to head west, did it?

A Yes.

Q Did it turn north?

A What?

Q Did it go straight, west what was its destination?

A I think that was where it hit, here (indicating);  
K-I-R-O-V (spelling).

Q This was the train's destination?

A In the direction of there. I don't know. I don't know the destination.

Q You asked the people where the train was going?

A Some people told me they were going to Kirov. I assumed that that was the direction the train was going.

Q Assuming they knew what train to get, did you get on the train with those people who said they were going to Kirov?

A They were on the train, these people, yes.

Q Then the destination of the train was Kirov, wasn't it?

A I assumed that, yes.

Q Now, did you ride it to Kirov?

A No.

Q Now, between Molotov and Kirov, did the train go through any checkpoints?

A I don't remember exactly when I had to jump off to avoid these patrols who checked the passengers, but it was, for sure it was after Kirov, and then between Vologda.

Q Vologda?

A Yes.

Q It has something to do with the Volga River?

A Yes.

Q A city by the Volga; is that what it means?

A Yes; by some, I think.

Q You don't remember any checkpoints between Molotov and Kirov?

A No.

Q Did you strike up conversations with people riding these trains?

A Oh, yes.

Q Did they want to know who you were?

A No. That is not the custom in Russia to ask who you are.

Q They didn't ask you where you were going?

A No.

Q But they told you where they were going?

A In between. I didn't ask them where they were going; when they spoke to each other, then I caught these names.

Q The train was crowded, wasn't it?

A It was crowded, and sometimes you could get in, and then sometimes not; and so it all depended.

Q You were all human beings, weren't you?

A Oh, yes.

Q And you were motivated like human beings are motivated, the first thing you want to do is have food?

A Yes.

Q A place to sleep?

A Yes.

Q Most of these people were in search of that, weren't they?

A Yes.

Q Didn't they want to know where you were going?

A No.

Q And you didn't ask them where they were going?

A No.

Q Now, did you ask people what kind of papers they had?

A No.

Q Did you attempt to find out what were the necessary documents that a Soviet person had to carry on his person?

A I knew that for myself, what kind of passport; and then that was named condararov, permission to go into this place; a paper which directed you to work in this place.



Q The ordinary Soviet person wouldn't have a passport, would they?

A Oh, yes.

Q They would have a passport?

A Oh, sure, the ordinary person.

Q You needed a passport to travel inside the Soviet Union?

A Yes.

Q A Soviet passport?

A Yes.

Q And you needed a set of orders or permission to travel?

A Yes.

Q Had you seen these documents before?

A I think I saw them, yes.

Q Where did you see them?

A The passengers, they looked at them, and I peeked over the shoulder.

Q Did you attempt to steal any of these?

A No.

Q How did you know where the checkpoints were?

A I didn't know that.

Q When the train slowed down, you just got off?

A No. When there began a commotion in other cars, we saw NKVD soldiers check papers, and then those who had no papers jumped off, and sometimes half a dozen jumped the train.

Q Was there any firing?

A Not that I know of.

Q Where did you go to?

A Again in the direction west.

Q And when you jumped off the train, where did you go?

A In the western direction.

Q Was the train in motion when the NKVD people inspected it?

A Oh, yes.

Q Let me come to the actual facts of the journey: You don't recall any papers being checked between Molotov and Kirov?

A Yes.

Q But between Kirov and Vologda, you do?

A Yes.

Q One, two or three times?

A Yes; about so, I think.

Q Three times?

A About so; I think.

Q Was this three times in one day, or on three successive days?

A Not in one day; there was maybe a day or two between, or more.

Q What is the distance, approximate distance, between Kirov and Vologda?

A We have to measure that here then (indicating map). I don't know.

Q It's about 225 miles?

A That's about 500 kilometers, yes.

Q And this took a couple of days, did it?

A Maybe a week. I don't remember now.

Q It took you maybe a week to get from Kirov to Vologda?

A Yes.

Q Two or three times when the train was being checked, you jumped off?

A Yes.

Q Off a moving train?

A Yes.

Q Were you injured?

A Only shaken up.

Q And did you go into the brush or into the woods, or

something?

A For a while, yes.

Q And then came back to the tracks?

A Yes.

Q Did you board another train?

A I went on foot, and then I told you on foot and on train, and there were --

Q The first time you got off, did you walk till you came to a station?

A I don't remember that.

For the record we have to make clear in these times there were thousands of kilometers I had to travel, and to establish exactly every train I boarded or where I went on foot, or where I went by train, that's impossible.

Q I understand. I want your best recollection; however, and this must have been a time of great travail for you.

A That was the worse I have ever made through.

Q You were travelling thousands of miles through a hostile land?

A Yes.

Q In order to get back to your homeland?

A I didn't get there.

Q Your nerve ends must have been very, very sharp;

you must have had great sensitivities?

A Yes.

Q Now, you recall how you got back on the train after you got off?

A Eventually, yes.

Q How?

A In a station again.

Q Did you ride the train into Vologda?

A Usually when I neared bigger towns, I got off the train before these towns because there were checkpoints, and these things.

Q So, did you get off the train before it got into Vologda?

A I believe so, yes.

Q Do you remember?

A I believe that I did because that was my usual procedure.

Q Is that the only reason you have for saying that you got off the train before you got to Vologda because it was your usual procedure?

A Oh, yes.

Q You have no independent distinct recollection of having gotten off the train before Vologda?

A Because that town was a big town, I am fairly sure that I would have gotten off there.

Q But do you remember now getting off the train before you got to Vologda?

A I must have.

Q That is the only reason you have for saying that?

A Yes.

Q Because that was your procedure?

A Yes.

MR. RASKAUSKAS: I am not sure that he understands the question.

The question is that, it is your procedure to jump off a train before it comes to a town?

THE WITNESS: Yes.

MR. RASKAUSKAS: But besides that fact, can you remember precisely in your memory whether you did jump off before Vologda other than following your rule?

THE WITNESS: No; I don't remember that.

BY MR. CONNOLLY:

Q If you got off before you got to Vologda, what did you do?

A Usually I circled the town, and then went on these railway tracks on the other side again, right again to board a

train.

Q And you were stealing food all the way?

A I told you earlier when I got very hungry, maybe once a week or so, I stole. When it reached for a week, then I didn't steal nothing. When I ran out and was one or two or three days without food, I had to steal again to keep myself alive.

Q I understand why you stole the food.

A Yes.

Q My question is:

Did you get food from any other source other than by theft?

A No.

Q Now, do you have a recollection of walking around the perimeter, the outskirts of Vologda?

A I should have, because I did that.

Q Do you remember?

A Otherwise I wouldn't have gotten until Leningrad.

Q Now, if we assume you got to Leningrad, that may be so; but my question is:

Do you have a recollection of walking around the perimeter or outskirts of Vologda?

A I have.

Q You do?

A Yes.

Q Did you walk south or north around it?

A North, I believe.

Q Did you come to some railroad tracks?

A Yes.

Q Did you walk the railroad tracks?

A Yes.

Q Did you board a train?

A Yes.

Q Did you board a train at a station?

A I don't remember that.

Q Where did you go from Vologda?

A Toward Leningrad.

Q Did you go west or north?

A West.

Q What was the next big town that you came to?

A I don't remember that.

Q Did you stay on the train, once you got on, till you got near Leningrad?

A No. Several times I jumped off.

Q For what purpose?

A There were checkpoints, I think, again.

Q NKVD soldiers were checking papers?



A Yes.

Q And attempting to control the populace?

A Yes.

Q And they would let go forward only those who had proper papers?

A Yes.

Q These soldiers were only by the railroad tracks, were they?

A They were only on trains.

Q There weren't any geographical points set up along the tracks, along the right of way?

A No; I don't recollect that.

Q You did not follow a road, you followed the train tracks?

A Yes.

Q How many days did it take you to get from Vologda toward Leningrad?

A A couple of weeks.

Q How long did the whole trip take?

A In mid-April I was arrested.

Q Mid-April?

A Yes.

Q So, four or five weeks from the time you left Kisel?

A Yes; five or six weeks.

Q Now, between Vologda and Leningrad, did you acquire any papers?

A No.

Q Did you get food from any other source other than by stealing?

A No.

Q You still had no money?

A No.

Q You still had the same clothes on that you had on when you left Kisel?

A Yes.

Q You still had the oil can?

A Yes.

Q You still had coal dust in your clothing?

A Yes.

Q Had you bathed during this entire time?

A With snow, only my face and hands.

Q But you hadn't taken a bath?

A No.

Q When was the last time you had taken a bath?

A In the officers' camp at Moscow.

Q So, you were now four months, at least, or five

months without a bath?

A Yes.

Q Had you been ill at all in this time?

A Yes.

Q And what kind of illness did you have?

A Scurvy.

Q Where did you develop the scurvy?

A In that camp at Kisel.

Q Did you have any diarrhea?

A Diarrhea?

Q Running bowels?

A I don't understand that.

Q Diarrhea is running or very loose bowels.

MR. PRETTYMAN: When you go to the bathroom, it's very loose, very thin, very watery.

THE WITNESS: Oh, yes, I think I had it, yes. I don't know that. What do you mean by that? I urinated very easily.

BY MR. CONNOLLY:

Q This is to defecate.

A What?

Q Did you have that?

A Sorry; I understood in this present moment.

Q During the trip did you have any diarrhea?

A I lost my teeth. All my feet, I have the scars here, if you want to see them, everywhere, all over. That kind of was loose flesh, without skin.

Q Where did that come from, scurvy?

A Oh, yes, scurvy. That time I went out of that camp at the first beginning of that hunger they began swelling on me, too, and the hands and the fingers began to swell, you know.

Q You say you lost some teeth during the course of this trip?

A Only these five are left (indicating).

Q The five bottom ones?

A Yes.

Q All the rest of your teeth are gone?

A Yes.

Q Do you have any dentures, false teeth?

A No.

Q You have not attempted, since you have been in the West, to acquire false teeth?

A Yes; but my money went in other things, and I couldn't afford it.

Q Did you have some of your teeth come out on account

of this scurvy --

A Yes.

Q During the course of this trip westward?

A There were some left, yes, but the last ones I think came out when I was in the Lager there in Leningrad; near Leningrad, not in Leningrad.

Q Did you get off the train before it reached Leningrad?

A I boarded several trains, but I was on foot before I was captured about four days and without food. I couldn't get nothing and could not steal. There was nothing, and I could get no food for about four days.

Q Where were you captured, in Leningrad?

A No; in the suburbs, I think.

Q You were trying to get into Leningrad, were you?

A Yes; through.

Q To go around it?

A To go around Leningrad, south.

Q You wanted to go south then, did you not?

A Yes. Now, I think it was after Vologda and between Leningrad. I am sorry; Volkhov.

Q Between there and Leningrad you were recaptured?

A Yes.

Q Had you gotten off the train at Volkhov?

A Yes.

Q Just before?

A Yes.

Q And you were on foot?

A Yes.

Q Making your way toward where?

A Toward Leningrad on the railway tracks.

Q You had to cross an awful lot of rivers between the time you left Kisel until you got to this point, didn't you?

A Yes.

Q And did you cross on the same bridges that the trains used?

A No; only when I was on the train.

Q If you were walking the tracks and you came to a river, what would you do?

A I went over the ice.

Q All these rivers were frozen at that time?

A Oh, yes.

Q Between Volkhov and Leningrad you were captured?

A Yes.

Q Tell us about that. How were you captured?

A I was without food already four days and then in, it was or must have been some suburb of Leningrad, I saw that from a truck the people unloaded loaves of bread, and I went mad and tried to steal a couple of loaves of bread, and then I was too weak to run away, and I was captured.

Q Who captured you?

A Militia.

Q Volunteers?

A No; the police.

Q You were then inside a town?

A That was a small village or something.

Q But there were police there?

A Yes.

Q And they ran after you and captured you?

A Yes.

Q Where were you taken?

A To the local Kommandatura.

Q Jail?

A Police headquarters.

Q Now, you must have been going down a street to see this truck?

A It was near these tracks, yes.

Q You were on a road or a street, were you?

A I went off that track when I saw in the distance that there was people unloading bread, and I tried to steal some.

Q Were you walking down a road or were you walking by the railroad tracks?

A Railroad tracks.

Q You saw in the distance a truck and people unloading bread?

A Yes.

Q And you went down a road or across some fields, or how did you get there?

A There was a little village on both sides of the tracks.

Q So there was a street, I take it?

A Yes. In the village there are these village streets, and I saw the magazin shop, a shop in Russian, and before that shop stood a truck, and then the people were unloading bread there.

Q You ran down the street to the truck and grabbed a loaf of bread?

A I walked there and then stayed a little time there to get the bread, and then I couldn't resist and I tried to grab some loaves.



Q Did you get the bread?

A Yes, I did.

Q And you started to run?

A Yes.

Q And people started to yell, I take it?

A Yes.

Q And the police came?

A Yes. The police didn't come; I literally ran into their hands. They came around the corner.

Q Then you were taken to the komnada tura, you said?

A Yes.

Q Were you given any food there?

A Instead of food I got a mighty good --

Q Beating?

A -- beating.

Q Did they ask you to indentify yourself?

A Yes.

Q What identity did you give or attempt to give?

A I told them that I was an Estonian prisoner of war and a soldier. I didn't say that I was an officer; I was a plain soldier; and was nearby in some place in a camp, and I was working somewhere there in that vicinity and I was hungry,

and I went off that workplace to get food, and I tried to steal that bread.

Q They asked you for your name?

A Yes.

Q What name did you give them?

A Erik Hein.

Q H-E-I-N (spelling)?

A Yes.

Q The same name you were known by in the political prison camp?

A Yes.

Q You didn't attempt to change that name?

A My head didn't work so well.

Q Did they ask you for any papers?

A Yes.

Q And you didn't have any?

A No.

Q Did they think that was strange?

A To make it clear, at this time thousands and thousands or escaped prisoners roamed the Russian countryside and; another thing, every local authority was very glad when they could catch a suspicious person to use the manpower for their own district. And after that a couple of days, I was put

in a camp in a suburb of Leningrad.

Q When you were first apprehended, you were beaten and you were asked for identification?

A Yes.

Q And you couldn't provide it, and you gave your name as Eerik Hein?

A Yes.

Q And you told the story of being an Estonian soldier?

A Yes.

Q Who had been working in the vicinity and come to town to get food?

A Yes.

Q Were you asked why it was that you did not have an Estonian soldier's uniform on?

A I changed my uniform for winter clothing.

Q I beg your pardon?

A I changed my uniform, German uniform, in that Kisel Lager for Russian clothing. Many thousands of prisoners of war did the same thing.

Q My point is, did the police in this town -- what was the name of the town?

A I don't remember that.

Q You don't remember at all?

A No.

Q Do you remember what district it was?

A Near Leningrad, that I know.

Q They didn't ask you why it was that you did not have an Estonian soldier's uniform?

A I don't recollect that.

Q You were put in a cell then?

A Yes.

Q Were you put in with any other prisoners?

A Yes. There was Russian criminals in there.

Q You were taken from there to where?

A A camp in Leningrad, a suburb of Leningrad.

Q Were you given any food in the first jail you were in?

A The first day, no; the second day, yes.

Q Incidentally, what happened to your wounds by this time? Had they become infected?

A Oh, yes.

Q They had healed up?

A On the way again, the again got bad.

Q Did they become infected?

A Yes, I think so. It was white slimy stuff came out from here (indicating), a substance.

Q When you were arrested, did you have these wounds that were still infected?

A I didn't understand that.

Q When you were arrested, were your wounds infested or infected?

A Yes; that wound here, in my leg (indicating).

Q Which leg?

A The left leg.

Q When you were taken to this prison camp near Leningrad --

A Yes.

Q -- what kind of a prison camp was this?

A There were mostly soldiers, prisoners of war.

Q So, you were separated from the Russian criminals?

A Yes.

Q They didn't treat you as a criminal because you tried to steal bread?

A No; that was the usual thing.

Q They apparently believed your story, that you were in fact an Estonian soldier?

A Yes.

Q Had they fingerprinted you at all?

A Not this time.

Q And in this camp near Leningrad, there were mostly soldiers?

A Former soldiers, yes.

Q Estonians?

A Estonians.

Q How long did you stay in this prison camp?

A I stayed there to the end of '45, and New Year's Eve we crossed the border into Estonia. It must have been the end of December.

Q So, you were arrested in late April --

A Yes.

Q -- and you stayed in the prison camp near Leningrad. Do you remember the name of the camp?

A No, I don't remember.

Q What town was it near?

A Near Leningrad.

Q Did it have a name to the camp?

A That work that they did was to build up blown-up factories.

Q The work?

A Destroyed factories. We cleared these ruins there, and cleared the place, and then we made by hand these cement or concrete blocks and built that factory again. And

when the machines came from Sweden and then from Germany, what they took --

A     Reparations?

A     Whole factories -- they made a clean sweep -- were brought back to Russia, and then we unloaded them, and then installed heavy machinery.

For example, I remember from Sweden hydraulic presses came, about 1,000, two stories high almost. And we, like the Egyptians, we pulled these presses by means of ropes and rollers, wooden rollers, to their places, and then put them in.

All these concrete blocks, we did all them all by hand; tamped the mixture there in the forms.

Q     Mr. Heine, when you were taken to the prisoner of war camp --

A     Yes.

Q     -- near Leningrad, were you given any interrogation?

A     No.

Q     They apparently accepted your story that you were a plain Estonian soldier?

A     Yes.

Q     No effort was made to return you to the camp from

which you had escaped?

A No.

Q But you were known as having once escaped as an Estonian soldier?

A To them?

Q Yes.

A How was it known?

Q You told the police near Leningrad?

A I thought you meant Kisel.

I didn't tell them that.

Q Didn't they see all this coal dust on your clothes?

A Yes.

Q They knew you hadn't been mining coal near Leningrad, didn't they?

A I told them I had been travelling several days by that train.

Q Did they ask you where you came from?

A I told them I don't remember that.

Q They didn't ask you the name of the camp from which you had escaped?

A No.

Q And they didn't want to know where you had come from?



A They wanted to know, but I said, "I don't remember. I am half-dead because of hunger," and I was indeed.

Q When you got to the prisoner of war camp near Leningrad, didn't they interrogate you?

A No.

Q Didn't they attempt to find out what camp you had escaped from?

A From my knowledge I don't know that.

Q Didn't they try to find out from you?

A No.

Q Didn't they ask you where you had come from in order to get to the suburbs of Leningrad?

A No.

Q Were you punished?

A They asked, yes, but I didn't remember.

Q Were you punished for having stolen bread?

A I got two times there in that cell heavy beatings and that was all.

Q You didn't have any trial?

A No.

Q When you got to the prisoner of war camp near Leningrad, did they give you new clothes?

A I lived in these ~~same~~ clothes.

Q Did you have a physical examination?

A I fell ill there.

Q With what?

A Exhaustion, I think, and high fever.

Q Were you put in a hospital?

A Of ~~some~~ sort, yes.

Q Did you have a medical examination?

A I think so, yes.

Q Did they see your SS identification mark inside your left arm?

A Yes, they saw that.

Q And that didn't lead to any interrogation?

A All of these men who were there, they had that mark, Estonians and Latvians.

Q Everybody who was in this camp?

A Estonians, everybody was in an Estonian division and it was under the SS jurisdiction.

Q You mean everybody in this prisoner of war camp near Leningrad had been in an SS division?

A I know about the Estonians, yes; the others I don't know.

Q Every Estonian there had been in an SS division?

A Yes.

Q Did you see any old friends?

A Yes; one was there.

Q Who?

A The battalion's blacksmith.

Q A battalion blacksmith?

A Yes.

Q What was his name?

A I don't remember that.

Q Anyone else you saw from the old battalion days?

A No, no.

Q Any officers?

A No. There were no officers as I know of.

Q Did anyone recognize you?

A Oh, yes.

Q Who?

A The man from my battalion.

Q Your blacksmith friend?

A Yes.

Q But you don't remember his name?

A No.

Q Have you ever seen him since?

A No.

Q Now, from late April until December, you worked cleaning up ruins?

A Building up.

Q Building concrete blocks and installing machinery in factories?

A Yes.

Q Did you learn when the European war came to an end?

A Yes; in that camp.

Q Did your treatment change at all after that?

A Not at first.

Q Was there any discussion or talk about repatriating you, sending you back to Estonia?

A These rumors began in November.

Q Were any attempts made in this camp to instruct you in Marxism or in any of the tenets of Soviet politics?

A No; only the same loudspeakers.

Q No indoctrination courses?

A No.

Q And no interrogation?

A No.

Q And you were just a common laborer all the time you were in this camp?

A Yes.

Q Now, was the camp, north, east, south or west of Leningrad?

A I believe it was south.

Q Now, what kind of accommodations did you have there?

A Can I ask what you mean?

Q What kind of housing did you have?

A We lived there in -- there were four-story factory houses, four stories high, and what were not damaged, about five or ten factory halls that were not damaged, and for prisoners where they lived was the fourth, on the top, the highest floor. All these factory halls were full of bunks, and then maybe 500 or more in that one hall there we lived.

Q Did you get a bath here?

A For the first time I began to have not a bath, but a shower, only maybe once a month or so.

Q Did you get new clothes?

A When summer came, yes; then they gave us some sort of clothes.

Q Did you work inside Leningrad or just at the camp-site?

A At the campsite.

Q There must have been a great deal of hostility on the part of the Russians toward you at this time, was there not, because Leningrad had undergone such a long, difficult seige?

A Oh, yes.

Q It was under seige for 800 days, wasn't it?

A Yes.

Q Weren't the Russians quite hostile to Germans and to former German soldiers?

A Pretty hostile, yes.

Q How heavy was the guard?

A It was again that usual barbed-wire, but it was different. All that territory was fenced in by maybe ten feet high wooden fence, and on top was interwoven with barbed wire, and because that was so big territory then not only on the corners, on the four corners, there was, let's say, not only here but about every two or three hundred yards.

Q Around the perimeter?

A Yes.

Q There were guardposts and watchtowers?

A Yes.

Q Of the approximately 500 of your mates in this camp --

A I am sorry; I am interrupting.

There were thousands of people.

Q But there were 500 that shared the same living accommodations that you did?

A Yes.

Q What percentage of those were Estonians?

A There were about 150 Estonians in that whole camp.

Q The rest were what?

A Lithuanians, Latvians, Russians who had served under German command, Vlassowitz they were called then.

Q What did they call them?

A Vlassowitz. They were called after the Russian general who surrendered to the Germans and formed in Germany his own Russian Army.

Q They were looked upon as traitors, weren't they?

A Oh, yes.

Q Were any of them shot?

A Who could escape the first days from the Vlassowitz, they captured them, but very many were shot when they were recaptured by the Russians, very many.

Q Those in the camp, were any of those shot?

A No.

Q Were you treated as a traitor?

A Oh, yes.

Q Were the Lithuanians and Latvians treated as traitors, too?

A Yes.

Q So all people over whom the Russians claimed victory, but who had fought with the Germans, were treated and considered as traitors?

A Yes.

Q How long were you in the hospital?

A About a month.

Q What was the nature of your illness?

A Undernourished and because that wound was so bad, I had fever and I was given better food to recover so that I could work.

Q This was the first month that you were in camp that you were ill?

A Yes.

Q When you were in the camp, did you undergo any beatings?

A When you work too slow, then you got some blows, but not so that you couldn't work.

Q Did you have any punishments?



A Oh, yes. When you didn't keep the rules, then they put you into --

Q Solitary?

A Yes; solitary.

Q During the time you were there, did you undergo any punishments?

A No.

Q Did you suffer any beatings while you were there?

A A couple of blows maybe, yes.

Q Who was in command of this camp?

A All these camps in Russia are governed by NKVD forces.

Q So the NKVD operated this camp just as they had operated the one in Kisel?

A Yes, I think so.

Q They didn't have one set of guards for political prisoners and another set for military prisoners?

A No.

Q You weren't under the army in that camp, in other words?

A No.

Q You were under the NKVD?

A Yes.

Q Was that camp just like the one in Kisel?

A No. It was much easier.

Q It was much easier?

A Yes; much easier.

Q What happened at the end of December? You said you stayed there until the end of December.

What happened then?

A Then there was a move to take all Estonians, all Latvians, and all Lithuanians back to their homelands, and by the end of December nearby at some railway station a big train was there, and about all over Northern Russia or maybe all over -- yes, almost over Russia -- into that train were put about 800 Estonians, prisoners of war.

Q You had not made any effort to escape from this camp, I take it?

A No.

Q And then you were transported by train back to Estonia?

A Yes, to Tallinn.

Q To Tallinn?

A Yes.

Q What happened when you got to Tallinn?

A We were put in a camp again.

Q What was the name of this camp?

A That was on a place called Beckery Radam. It's the port on the outskirts of Tallinn, by the sea.

Q Among these 800, did you see anyone you knew?

A Yes; I knew many of them.

Q Do you remember anyone that you saw on that train?

A You see now comes a question that is to me very difficult to answer. Many of these known persons, you asked me to answer in Estonia, and I think from some person I know they are still there, and --

Q Let's not get into this.

You are saying that some people are still in Estonia. What I am asking you is, do you remember seeing anybody on the train from Leningrad among these 800 Estonian prisoners who were be repatriated?

A Yes. For example, in that boxcar where I rode, there were 40 Estonians, and --

Q Among the 40, did you see anybody that you knew?

A Not in my part, not where I was.

Q Were there other people on the train that you knew?

A Yes.

Q How do you know that?

A When that train stopped to take water or coal for

the locomotive, then they took prisoners to carry that coal, and to carry water along the train for everyone, and there was called names, that guy is here, and that guy is there in this wagon or that car, and so on.

Q This must have been a happy time for you?

A Oh, very happy.

Q Did you see any old friends, any old comrades in arms?

A Yes.

Q Do you remember the names of anyone you saw in that train?

A I remember, but --

Q Who?

A Now comes the question. Some of them are what comes after that period of prison camps, were very closely associated with me as guerrilla fighters, and some of them are still alive, and when I now reveal these names, and these records are open <sup>to</sup> everybody, it can fall into wrong hands, and they pay with their liberty and their life for that.

Q Mr. Heine, my question is:

Did you see any of your old buddies on this train that was repatriating Estonian prisoners of war? I am not asking about anybody's guerrilla activities.

You just volunteered that some of these people you saw on the train are now guerrilla fighters, but I didn't ask you that.

A But in further questioning comes that out.

Q You just answer the questions one at a time, and don't anticipate what I am going to ask you an hour or two hours from now.

I am asking you if you can remember the names of anybody you saw on this train. I am not asking about anybody's guerrilla activities.

A I can only say that I can't do that because I would endanger their lives.

Q How is it going to endanger their lives if they were on a train that the Russians had sent from Leningrad into Estonia, repatriating Estonian prisoners of war?

A With some of these friends I escaped that camp, and went as guerrilla fighter.

Q I am not asking you with whom you escaped yet; I am asking you who you saw on the train.

A When I saw that somebody was there with whom I escaped --

Q What you have done, you have polluted the testimony, I haven't.

A In what way?

A You have polluted the testimony by saying that the people you saw on the train later assisted you in guerrilla activities. I never asked you that.

A Not all, but my further life that comes out.

Q Give me the name of somebody that you saw on the train that did not participate with you in guerrilla activities.

A Oh, yes. Mr. Richard Jurs.

Q He is the only one?

A There is one more.

Q What is his name?

A That name I can give you; *Heino Helmet* Heine Helmut.

Q Richard Jurs and Heine Helmut?

A Yes.

Q They were two people that you saw on the train from Leningrad to Tallinn?

A Yes.

Q How had you known them before you saw them?

A Both were from the days of my boyhood in Tartu. I knew them.

Q Both of them were from Tartu?

A Yes.

Q Had they served with you in any Estonian regiment or battalion?

A Not with me, but they were in the German Army.

Q Had they served with you?

A No. I was in the same division. They were in the same division, too.

Q Had you seen them since the days in Tartu?

A Yes, I saw them.

Q Where had you seen them?

A In the Army.

Q Whereabouts in the Army?

A In the Estonian division.

Q But where was it, on the Narva or on the Ukraine?

A Yes, on the Narva front.

Q Did you talk to them about their experiences?

A When I met them?

Q Yes.

A Yes; we talked about it.

Q Did you tell them about your experiences?

A Not all.

Q I take it you didn't tell them about being in Kisel?

A I did not.

Q You did not know whether they had become infiltrated or not; is that right?

A Right.

Q Have you since found out whether either of these people were Russian spies?

A I don't think so.

Q Was it fairly well-known or was it fairly well feared that among these repatriated Estonians, there may have been Russian agents?

A Oh, yes.

Q So everyone was very cautious about who they talked to?

A Tried to be, yes.

Q Because you didn't know whether he was pro-Soviet or anti-Soviet?

A Yes.

Q But you had not had the experience during the entire time you were in Russian hands of being indoctrinated? No one attempted to indoctrinate you during this entire time from August of 1943 until now, we are in January 1946?

A Yes.

Q Would you agree that the mere fact that the person had been in Soviet hands as a prisoner and even had been



tortured, is no indication that he was not a spy?

MR. RASKAUSKAS: I object.

THE WITNESS: Please, will you repeat that?

BY MR. CONNOLLY:

Q You had known that some people had been tortured and beaten by the Russians, and in exchange for not beating them and not torturing them, they had gone over and become Soviet agents?

MR. RASKAUSKAS: I object. He never stated that.

BY MR. CONNOLLY:

Q Would you not agree that is so?

A It may very well happen.

Q Had you ever heard that?

A Oh, yes, I have heard; yes.

Q Now, there were other persons you saw on this train?

A Yes.

Q Whose identify you presently recall?

A Yes.

Q But whose names you refuse to give me --

A Yes.

Q -- because you have present knowledge that they are in Estonian and acting as partisans?

A Not acting as partisans, no; but in the period I

was a guerrilla, they were also.

Q How many such persons are there?

A From that camp there is one.

Q One person?

A Yes.

Q One person who you saw on the train?

A Yes.

Q And who, when he was repatriated, later fought with you as a guerrilla?

A Yes.

Q He is not now in the West to your knowledge?

A I am sure of that.

Q He is still in Estonia?

A Yes.

Q You are sure he is still in Estonia?

A Yes.

Q How do you know that?

A Because his relatives are living here, and they have got news that he is there in Estonia presently.

Q This was a man?

A A man.

Q You are referring to a man?

A Yes.

MR. CONNOLLY: I want to reserve my right to ask the court to instruct Mr. Heine to give me the name of this person, Mr. Raskauskas.

Mr. Raskauskas, you had talked to me before the deposition was under way today telling me that there would probably be in the course of today some names that Mr. Heine would refuse to give me. I told you I could make no agreement with respect to it, but I would want to consider it, and in pursuit of that reservation I now make this point:

That I am going on with other forms of interrogation, but I may insist or ask the court to order Mr. Heine to give me this name.

MR. RASKAUSKAS: We also reserve the right to ask for a protective order for the entire contents of this deposition.

MR. CONNOLLY: While we are on this point, also before we got under way this morning, you told me that there are the names of two young ladies that Mr. Heine referred to yesterday, and you wished that I could agree with you that the names of these two young ladies would not be published lest some retaliation be taken against them.

I told you that I could not necessarily agree with that because I had not made up my mind as to my entitlement to

the names of these people. I am not sure that Mr. Heine unilaterally ought to be given the right to decide what names to give me, and what names not to give me, but in order that the matter can be postponed without any adverse effects coming to anyone, I agree that Mr. Poe shall withhold filing the original of this deposition in court for a month or six weeks until I have notified you and him what my position is with respect to my entitlement to the disclosure of these names that Mr. Heine is withholding, and when I notify him and you, I will ask Mr. Poe to give you enough time before he files, to take some type of steps to protect your rights so that the matter will not be filed until there is some sort of an opportunity for a court hearing.

MR. RASKAUSKAS: Very well; and we still reserve our right which we have, without reserving the same, to file an immediate motion for a protective order and to keep the deposition, the records and all copies within the possession of the Reporter until otherwise directed by the court.

MR. CONNOLLY: Let's take a luncheon recess and resume at two o'clock.

MR. RASKAUSKAS: All right.

(Whereupon, by agreement of counsel a luncheon recess was taken at approximately 12:30 o'clock, p.m., to be resumed at two o'clock, p. m.).

JHF bbb

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AFTERNOON SESSION

(After luncheon recess the hearing was resumed to reconvene at 2:00 o'clock, p.m.)

EXAMINATION ON BEHALF OF DEFENDANT (Continued)

BY MR. PRETTYMAN:

Q. Mr. Heine, yesterday you showed me two newspapers which had been sent from Russia to Canada. Do you still have those with you today?

A. I left my overcoat. I don't think so.

Q. Tomorrow, if you have to come back tomorrow, would you bring those in with you?

A. Yes, I would.

Q. I think before lunch you had told us that in late December you had been transferred or repatriated to a prison near Tallinn. Is this prison actually in Rallinn?

A. On the outskirts of Tallinn.

Q. Which direction?

A. North.

Q. What was the name of the prison?

A. You have to understand Tallinn lies on the Baltic Sea, and that camp force had been a secret. It was destroyed and we were put into that camp and we built that camp up and went up the harbor, the seaport.

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Q. Pinpoint the best you can the date of your transfer. At one point I think you said it may have been New Year's Eve. Is that correct?

A. No, I believe the New Year's Eve we crossed the border of Estonian and Soviet Union border.

Q. How long did it take you to get from the camp near Leningrad to the border?

A. About five days, I believe.

Q. Were you on a train with Estonians?

A. Yes.

Q. How many?

A. 800, about.

Q. And you crossed the border on New Year's Eve?

A. Yes.

Q. Did you actually go into Tallinn?

A. No, on the outskirts of Tallinn there is a station for -- not for passengers, but for freight trains. And we went into that station.

Q. You were under guard?

A. Oh, yes.

Q. With Russians in uniforms?

A. Yes.

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Q. And arms?

A. Yes.

Q. What uniform did you have on at that time?

A. The Russians.

Q. What uniform did you have on at this time?

A. I had again Russian winter clothing on, not that with what I escaped from Kisel, but another one that they gave to us.

Q. You had been issued new clothing at the camp at Leningrad?

A. Not new clothing but old Soviet Army -- these jackets, winter jackets --

Q. Overcoats?

A. No, not overcoats. The short ones, jackets.

Q. What was it made of?

A. Cotton.

Q. And what was under that?

A. Cotton wool.

Q. What was under the jacket?

A. Under the jacket -- oh, yes, only that winter jacket and winter trousers we were given for prisoners. Under that jacket were only the shirts, linen shirts.

Q. Did you have underwear on?

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A. Yes.

Q. Was this long winter underwear?

A. Yes, long winter.

Q. And this linen shirt?

A. Yes.

Q. And nothing over this except the short Russian jacket?

A. Yes.

Q. What kind of shoes or boots?

A. Russian old Army boots.

Q. Were there any insignia on any part of this uniform?

A. I believe there were Russian insignias.

Q. What kind?

A. From what factory they came or something like that.

Q. No office or rank or of the corps or Army from --

A. No, that was all stripped. They were old, patched-up things.

Q. But there was no question that this was Russian uniforms?

A. Oh, yes.

Q. Anyone looking at it could see it was an old Russian uniform?



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A. An old and discarded, yes.

MR. RASKAUSKAS: I would like to correct the record at this point. I believe the witness stated he was wearing surplus Russian clothing. You characterized it as a uniform.

MR. PRETTYMAN: He can correct me. You correct me any time I state something --

MR. RASKAUSKAS: What kind of clothing was it?

THE WITNESS: Discarded, old, as old as they could get.

BY MR. PRETTYMAN:

Q. But there was no question of the fact this was a uniform in that it had been worn by someone in the Russian Army?

A. Some time ago, yes.

Q. These were not civilian clothes?

A. No.

Q. Now when you arrived in Tallinn, you got off the train at this freight station?

A. Yes.

Q. And how were you transported to this prison?

A. On foot.

Q. How long would that take?

A. Maybe a half hour or one hour.

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Q. Describe the prison to us.

A. When the war lasted, the Germans had built the shoreline prison camp from Russia, in the war, and they used that old prison of war camp for us.

Q. This was really a German camp, then, built by the Germans?

A. Yes.

Q. Describe it for us.

A. It seems to me that prison camps all over the world are all the same. That was built on the same principle. The prison camp was encircled by barbed wire and in the corners there was a watchtower and post, machine gun or something, but the only difference was the buildings were better constructed than anywhere else.

Q. Better constructed?

A. Yes, old German buildings.

Q. They had four fences?

A. No, I believe there were two.

Q. How many prison camps have you been in, Mr. Heine?

A. Do you mean only to this time?

Q. No, in your lifetime.

2 A. Do you want me to count in this after capture by Tartu?

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Q. I am asking how many prison camps.

A. In that question do you count in prisons too?

Q. For the present purposes, I am interested in what we will call prison camps, other than prisons.

MR. STANFORD: I think this is far afield. I think he has been in all the prison camps he has been up to now. It seems only examination upon examination to test his credibility. I think that is fine, but this seems to be going beyond, extremely beyond the limits, beyond anything that is necessary.

Go ahead and answer it again.

MR. RASKAUSKAS: It might be helpful to you to list them. List them and take your time. We have all afternoon.

BY MR. PRETTYMAN:

Q. Mr. Heine, I will withdraw this question.

How long were you in the prison camp near Tallinn?

A. Until June '46.

Q. You were there approximately six months?

A. Yes.

Q. I take it that all of the prisoners in this prison camp were Estonians?

A. Yes, all were Estonians.

Q. All of them?

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A. All of them.

Q. And I assume, here again, you saw friends from your childhood days?

A. Yes, I did.

Q. And from the days you had spent near Tallinn?

A. From the time I knew them from Tartu.

Q. Was there an Estonian leader for your prison camp, that is, somebody who among you took charge of the prisoners and was considered the leader of your group?

A. That was not allowed in that kind of prison .

Q. There was no one whom you recognized informally as your leader in this prison camp?

A. No.

Q. How many were actually in the prison camp after you arrived?

A. Nobody.

Q. No, no, I mean how many prisoners in total were there in this prison camp?

A. This one? 800. After this 800 men the prison camp was empty.

Q. So there were no prisoners there when you arrived?

A. I think so, yes.

Q. You mean you think there were not?

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A. I think there might have been some, but not many.

Q. You arrived in virtually an empty camp?

A. Yes.

Q. Did more come while you were there?

A. No. No more.

Q. So practically there were 800 men when you arrived, and 800 when you left?

A. Yes.

Q. Can you recall any men that were in the camp that were with you, in addition to those you mentioned coming on the train with you?

A. I mentioned these two names, Richard Jurs and Hehco Helmet.

Q. Are there any others you can recall?

A. I can recall them but I can't give their names.

Q. On the same grounds that you refused before?

MR. CONNOLLY: On what grounds did you refuse to name these people before?

THE WITNESS: Because they were engaged with me in guerrilla activity and I know some of them are alive and this description goes in the question of life and death for them.

MR. CONNOLLY: Mr. Heine, Mr. Prettyman did not ask you

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the names of anybody who engaged in guerrilla activities with you. You understand that, don't you?

MR. RASKAUSKAS: I would like to state for the record that the point that it is a matter of patently obvious common sense that if he is inquired of to the names of the people he met, as you previously inquired of him, on the train, going into Estonia, and he gave names, for example of John Smith and John Doe, and you subsequently interrogated as to whether he again saw John Smith and John Doe, he would say he saw them in the same camp and then you would again ask where he saw John Smith and John Doe and he would state he could not further testify for certain security reasons, which would be perfectly ridiculous for him to attempt to show them at that point after he has already divulged his name. And I would, at this point, like to ask Mr. Heine if he would like to give them under order of court, if the Court orders you?

You will give the names if the Court orders you?

MR. CONNOLLY: Certainly he does. If he doesn't the Court will dismiss the case.

THE WITNESS: I am willing and able to give these to FBI or CIA. These are secrets. They are open.

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MR. RASKAUSKAS: He has taken the position that he cannot either divulge these names out of deference to the lives of these people. These are very grave matters. These are not matters of a contest between counsel and client or any minor colloquy between the counsel involved. I think our demeanor and the demeanor of this witness here indicates that we are ready, willing and able to give you the fullest and widest possible discovery and we will patiently cooperate with you in the deepest type of fishing expedition that you might want to embark on, but this man has indicated to me before we came here that if the Russians have not been able to beat these names out of him, he is not going to release them lightly for purposes wholly irrelevant to this litigation.

MR. CONNOLLY: We don't know that any Russians have tried to beat the names out of him. I ask you to wait until the question has been asked, that are of some danger, instead of anticipating what our questions will be.

You have adequate means under the discovery rules to protect any secrecy. All you have to do is move to seal the deposition. That is all you have to do. This man does not have to refuse to answer the question.

MR. RASKAUSKAS: Well, we are at a juncture, then, where

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you can ask for a order --

MR. CONNOLLY: If we get an order then are you going to bring him back from Canada?

MR. RASKAUSKAS: We could do two things. You can, at your election, terminate the deposition, or you can reserve your right and certify them.

We certainly cannot get an order from the Court. There have been four or five reporters here involved in this matter and there have been a number of counsel and this information is susceptible at this stage.

MR. CONNOLLY: Is counsel charging that one of the reporters is a Russian agent?

MR. RASKAUSKAS: I will not dignify that.

MR. CONNOLLY: I think that is the position you have put everybody in, when you say you are not going to trust us.

3 MR. RASKAUSKAS: I have great respect for counsel and I trust them, but I am talking about the difficulty in management of supervision of information. These records aren't kept under security measures. They are not kept in a safe, to my knowledge.

MR. CONNOLLY: They can be.

MR. RASKAUSKAS: In Mr. Poe's office.



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Well, if we can enter into a stipulation, although I think even still he will be hesitant to give the answer. But we would be more comfortable if we would enter into a stipulation that all these records shall be kept in close security and not revealed to anyone unless we have had opportunity to have this resolved by the Court, to protect information already in the files.

MR. CONNOLLY: There is no information in these files that could possibly embarrass anyone except Mr. Heine.

MR. RASKAUSKAS: That is your statement, Mr. Connolly.

BY MR. PRETTYMAN:

Q. Mr. Heine, in regard to these names, let's pass the names.

Where did you receive the information that would indicate to you that these men are still in Estonia?

A. Some relatives of these people are living in Canada. And they have got news from there that they live there.

Q. They are receiving mail from these people in Estonia?

A. Yes.

Q. And they have told you these men are in Estonia and engaged in guerrilla activities?

A. Not guerrilla activities at the moment. One of

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them is living as an ordinary person after serving his term in Russia, but not for guerrilla activities; something else.

Q. And the other?

A. The other -- about two or three people more who are living presently in Estonia.

Q. And are their parents living in Canada?

A. They are the same acquaintance of us who know that in Canada, who know that they are living there now.

Q. These people in Canada, have they sought you out and given you this information?

A. When I came to Canada, they sought me up and I sought them up and I gave them all information, what they wanted about their relatives and friends who I had met when I was in Estonia as a guerrilla.

Q. How did you find them?

A. Where I was moving there were many farms and where I stopped and visited people and they had relatives here.

Q. Is it fair to say that both in Canada, in Toronto, and also on your various trips to the United States, and through Canada, that you have sought out Estonians, people of Estonian background, to either renew acquaintances with them or make acquaintances with them?

A. No.

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Q. Y u have never done that?

A. No.

Q. You have never sought out your old friends?

A. They have mostly looked for me.

Q. I am asking you now what you have done. Is it fair to say you have looked up old friends, acquaintances, or people that you have met on your various travels?

A. Yes, when I went over -- I believe that was the only one I looked up myself, Mr. Tammark.

Q. And you have not sought out others of Estonian background?

A. They have sought out me.

Q. I understand that. But you have not sought them out?

A. No.

Q. Now in this prison camp outside Tallinn, what was the daily routine?

A. In the morning, 5:00 o'clock, wake up, then one hour about for washing and for breakfast, and then to work.

Q. And where did you work?

A. On that harbor.

Q. What type of work did you personally do?

A. I was in a unit which shoveled gravel out of

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trains to fill that -- I don't know how it is called. It goes into --

Q. Are you trying to say an inlet?

A. Not inlet. All the people walk out, with concrete, and pour between this wall with sand and gravel. I don't know exactly.

MR. RASKAUSKAS: A dam or dike?

THE WITNESS: Yes, dike, for harbor and ships.

BY MR. PRETTYMAN:

Q. Then in the evening --

MR. CONNOLLY: Breakwater is the word you want, isn't it?

THE WITNESS: No, no, after the ships came here.

MR. STANFORD: Pier?

THE WITNESS: Yes, pier. That is the correct answer.

After that we came back after twelve hours a day.

BY MR. PRETTYMAN:

Q. When did you come back in the evening?

A. After 6:00 o'clock about. And then there was again dinner. We get water and at 10:00 o'clock we had to go to bed.

Q. Were you free in the evening, free in the sense you were in camp but you didn't have to work?

A. Yes.

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Q. Were you well fed?

A. Not particularly.

Q. Were you interrogated during this period?

A. In this camp they began this interrogation.

Q. Did they know who you were at this period? Did the Russians know who you were, Mr. Heine?

A. No.

Q. You had given your right name, however?

A. No. My name was still Erik Hein. Hein is a Jewish artist's name and Heine is a pure Estonian name, that means clean cross.

Q. When did you adopt this name, not originally, I remember that, but when did you again adopt this name?

As I understand it, back in Russia, in the Russian prison, after you were captured this last time, you were using your correct name.

A. No.

Q. You were not?

A. No.

Q. Were you just Hein still?

A. Yes, yes.

Q. You used it all during this period?

A. Yes.

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Q. Were you fingerprinted when you arrived at this camp?

A. No.

Q. But you were interrogated?

A. Once, yes.

Q. How long did that interrogation last?

A. About half an hour.

Q. And did they beat or torture you during this period?

A. No.

Q. They simply asked you questions?

A. Yes, name and person and where did you live and so on and so on.

Q. What did you tell them?

A. I told them my assumed name and I believe that I made myself younger, much younger than I was.

Q. How old were you at that time? That was 1946.

I will have to subtract. How old did you make yourself? That is from 1927 to 1946.

A. I believe five years younger.

Q. That was so they would not find out your true identity?

A. Yes.

Q. What did you tell them about your parents?

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A. I don't know nothing about them, until when they said where did you live.

Q. You told them you did not know anything about your parents?

A. I really didn't know, either.

Q. You are talking about whereabouts now?

A. Yes.

Q. You told them who they were?

A. No.

Q. What did you tell them?

A. I told them my mother was a wash woman and my father was a coal carrier.

Q. What name did you give them?

A. Hein, same name.

Q. And your mother's name?

A. Marty Hein.

Q. Did they seem satisfied with that?

A. You know the purpose of these Estonians were brought back to Estonia was that is the only spot in Estonia they could much better and much easier find out what and who would be really -- who somebody really was and what somebody had done. And I presume that was the main cause why all Estonians, Slavians and Lithuanians were taken to

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their homelands.

Q. If I understand what you have said, the main purpose of transporting you back to Estonia was to establish your true identity; is that right?

A. Yes, yes.

Q. And my question is, after they got through with this interrogation, were they satisfied with your story?

A. No, that was only the first time.

Q. Oh.

A. For example, many went there seven times and maybe all night and disappeared, didn't come back, and we presumed they were taken to prison or something else.

Q. Or shot?

A. At that time we didn't know; maybe.

Q. How many would you say disappeared out of your group?

A. On that period I was there, let's make clear, these interrogations began about-- we worked a month in the harbor, maybe February to March and in this period about ten disappeared.

Q. When was your first interrogation?

A. It was by May or June.

Q. Were you there for over four months before they interrogated you?



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A. Yes, yes.

Q. Were you ever interrogated again?

A. No.

Q. What story did you give about your background?

A. Simple fellow, working man.

Q. Where did you say you had been for 25 years?

A. They didn't ask so much. They only wanted the name, first the name, the first name and second name, where did you live, your parents and that much was almost all. They asked who were you and who were the parents and that was preliminary, I think.

Q. And they asked for your street address, I assume, in Tartu?

A. Yes.

Q. Did you give them the correct one?

A. No.

Q. You gave them a false one?

A. Yes.

Q. Those questions would take just a few minutes.

How was the rest of the half hour spent?

A. Writing down and all that; half hour I was there was mostly what I was and where are my parents and that is --

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Q. But they did not ask you about your background,

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how you spent the --

A. Not especially. I was mobilized -- oh, yes, I remember. Which unit were you in in the Army, in the German Army.

Q. Did you tell them?

A. I told them Estonian Division.

Q. Did you tell them you were in the SS?

A. That was open knowledge, that 20th Division was SS. There was nothing I could do.

Q. They did not ask you what battles you had taken part in?

A. Yes.

Q. Did you tell them?

A. Yes.

Q. After Tartu did you tell them?

A. Yes, they asked me where I was captured, too. I told them Tartu.

Q. What time were you referring to there? Are you referring back to June of 1940?

A. No, 1944.

Q. Excuse me. In August of 1944?

A. Yes.

Q. You told them about that?

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A. Yes.

Q. Did you tell them which Russian prison camps you had been in?

A. I told them we went over Petseri to Leningrad and we stayed there in Leningrad's Voljandi camps and that we were brought back to Tallinn and here we are.

Q. How did you explain how you got from Petseri to Leningrad?

A. They didn't ask that. Only the preliminaries.

Q. Who was your best friend during this period?

MR. STANFORD: By that I take it you mean at this particular camp?

BY MR. PRETTYMAN:

Q. At this particular camp, outside of town.

A. A fellow with whom I escaped from that camp.

Q. Tell us about that. How did that happen?

A. In June.

Q. When in June?

A. The beginning of June, first days of June.

Q. Tell us how that came about.

A. That goes for me only.

Q. Let me understand what you are saying. You are not giving the man with whom you escaped?

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A. I can't give that.

Q. Why can't you?

A. Because he is now living in Estonia and that might harm his freedom.

Q. All right, tell us, if you will, sir.

A. After that preliminary I was really afraid that -- I was sure that there were more of these interrogations coming and because there were many men who knew me and who I really was, then I decided to escape from there.

Q. The interrogations took place in the middle of April?

A. No.

Q. I am sorry.

A. I think May.

Q. In May, in the middle of May?

A. No, I think the beginning of May.

Q. So you were there for a month after the interrogations?

A. Yes.

Q. But during that time you were not interrogated again?

A. No.

Q. You still have your same Russian uniform that you

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came into camp with?

A. Yes.

Q. All right, tell us how you escaped.

A. By this time many of these men who were in the prison camp got in touch with their relatives outside --

Q. How did they do that?

A. How can I say? These guards around that camp, they were no more Russians, but the Estonians who belonged to the Soviet Army.

Q. Were there any Russian guards in or around the camp at all?

A. Oh, the beginning, yes, and mixed with the Estonians, but after a couple of months only Estonians were there.

Q. Now these Estonians, the Estonian guards were actually members of the Russian Army?

A. Yes.

Q. Including the Officers?

A. Yes.

Q. And so how did these messages get out?

A. Well, even the Estonian guards found their former friends and there was almost a friendly relationship between these 800 of us and these guards. And they took out letters

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and messages and so they contacted their relatives.

Q. Were you interrogated by Estonians or Russians?

A. By an Estonian.

Q. You were never interrogated by the Russians in this camp at all?

A. No.

Q. Never a question?

A. No.

Q. So some messages had gotten out -- had you sent any messages out?

A. No.

Q. But others had?

A. Yes.

Q. How did this relate to your escape?

A. These relatives brought food and better clothing with them and gave it through these guards to the prisoners and I maybe forget to mention that many, not many, but some of these prisoners, after their interrogation, after their interrogation began earlier, were freed. They were not exactly freed, but they were incorporated into special work battalions, labor battalions, half free.

Q. Why was that? Was that because they had convinced the guard they were pro-Soviet?

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A. No, that was -- I believe that was caused because these people could confirm they were mobilized, not that they were volunteers in the German Army.

Q. In other words, they had been conscripted into the German Army against their will?

A. Yes, yes.

Q. I take it that they had thought in your case you had joined the German Army voluntarily?

A. No, I told them I was mobilized too.

Q. Why didn't they put you in one of these work gangs?

A. That was only the preliminary. They had to go on very, very deeply. These people who were there maybe three, four, five, six times -- they were interrogated.

Q. Well, why were they interrogated six times and released, and you were not interrogated in the four and a half months?

MR. RASKAUSKAS: I object.

MR. PRETTYMAN: If you know.

THE WITNESS: They began at random.

BY MR. PRETTYMAN:

Q. And you just happened to come up near the end?

A. Yes. That went on -- when I already was out of there, that went on -- I don't know exactly how long but I

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am sure it had gone on, screening or what they call it.

Q. How many escaped during the period you were there?

A. One escaped before we did. We were the second time and after that I don't know any more.

Q. You mean the two of you were the second and third men to escape?

A. Yes.

Q. One man had escaped before you?

A. Yes.

Q. Do you know who he was?

A. I don't remember his name.

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Q. You had not known him before?

A. No.

Q. And you have not seen him since?

A. No.

Q. Tell us again how you escaped. Not again, but tell us the first time.

A. As I mentioned, they brought the civilian clothing for the prisoners, these relatives, and I had to escape because I was sure my true identity comes through, because what I told them would be very easily disproved.

Then my friend's relatives brought for him civilian clothing but I had to -- well, I had -- I had that



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bad habit to learn stealing on the way and I stole one set of civilian clothing.

Q. From your friend, did I understand?

A. Not from my friend, but from another fellow.

Q. From another Estonian prisoner?

A. Yes.

Q. What was this clothing?

A. Jacket and civilian trousers and shoes and cap.

Q. How far is Tallinn from Tartu?

A. About 150 kilometers.

Q. Were you very frightened of having your true identity discovered?

A. Oh, yes.

Q. Why?

A. Because I had, in the Russian mind, committed deadly crime against the Soviet Union. I was first time arrested in the port I was in by the political -- I was arrested by the political police. That was enough already. I had to escape.

Q. You mean you would have been shot if they knew who you were?

A. That is for sure.

Q. That is not based on that instance, but on sub-

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sequent activity as well?

A. Yes.

Q. If they had known who you really were, they would have shot you for numerous grounds?

A. For sure.

Q. Now describe the clothing again. Were these winter clothes or summer clothes?

A. Summer clothes.

Q. And you had a cap?

A. Yes.

Q. Was this a military cap?

A. No, civilian.

Q. With a visor?

A. Now they use here too. I don't know how it is called, that cap.

MR. RASKAUSKAS: Like a golf hat?

THE WITNESS: No, not golf, another type, but in the early days called hat.

BY MR. PRETTYMAN:

Q. Does it have a visor in front?

A. Yes, yes.

Q. What kind of jacket?

A. I believe it was a brown jacket.

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Q. And you got pants?

A. Yes, pants too. Pants were a little bit gray or something.

Q. And boots?

A. Yes, summer boots.

Q. Estonian boots?

A. Shoes, not boots.

Q. Estonian shoes?

A. Yes.

Q. Underwear?

A. Not the same underwear, but I had that.

Q. When did you steal those, Mr. Heine?

A. We worked this time by a saw mill near that camp and this time already they had about April, so we could have half an hour rest for dinner time. That was a very near, maybe about 300 yards from the camp. We went back to camp to dine and Mr. Helmet --

Q. What is his first name?

A. Heheo.

Q. What is his last name?

A. Helmet.

Now I was working there at the harbor and I steal this Mr. Helmet's clothing.

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Q. That was in April?

A. No, that was first days of June.

Q. How long did you keep the clothing before you escaped?

A. When we finished at dinner we went back to our work and I smuggled these civilian clothes with me into the saw mill.

Q. Did your friend steal clothes too?

A. No, he was sent civilian clothes by his relatives.

Q. You did not have any friend or relatives to send you clothes at this time?

A. No, I didn't know nobody.

Q. All right, so what happened? How did you get out?

A. There was a cellar, basement, under that saw mill. We went down and changed clothes and it was still some people -- the work had not begun yet and then we sneaked -- the guard that was guarding was very -- not strong, and we sneaked out of that saw mill and went over to Tallinn.

Q. Walked to Tallinn?

A. Yes.

Q. I take it communication between prisoners and relatives were quite free?

A. Not free, but --

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Q. They must have sent letters if they could get clothes.

A. Yes.

Q. Did you attempt to correspond with your parents?

A. I didn't know where they were.

Q. Did you attempt to correspond with any of your old friends in Tartu?

A. No.

Q. You didn't write any letters out?

A. No.

Q. Now let me make sure I have this picture clear.

You were near the saw mill at the time you escaped?

A. In the saw mill.

Q. In the saw mill. And the change to the civilian clothes?

A. Yes.

Q. Were there any guards around?

A. There were, but not on the side of the building -- there was no barbed wire or anything. It was open.

Q. So all you had to do was run out of the building?

A. Not run out, but sneak out as if we were civilians.

There were many civilians that walked by that mill and prison camp.

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Q. So you just joined the crowd?

A. There was no crowd, but a few.

Q. And you walked off?

A. Walked off, yes.

Q. Where did you go?

A. My friend had -- almost all his relatives were in the forest. Almost all of his relatives were in the forest.

Q. Mr. Heine, you walked off with your friend and you were now where, just south of town?

A. We walked into the town.

Q. What did you do?

A. There we were met by acquaintances of my friend.

Q. Is that a man or a woman?

A. There were several men and women.

Q. Had they been waiting?

A. Yes.

Q. They knew you were coming?

A. Yes.

Q. And was there an alarm given at the camp? Was there shooting or people running after you?

A. No.

Q. You got away undetected?

A. Yes.

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Q. What did you do with these friends of your friend?

A. They gave us tickets on the train, took us on the train and we went southward by train as passengers.

Q. How did they know you were coming?

A. My friend contacted them.

Q. Wrote them?

A. Wrote them, they had several times visited and seen him.

Q. Well, visited the prison?

A. Not prison, but guardhouse. They would have a face-to-face conversation.

Q. In other words friends could come to this guardhouse outside the prison and talk with prisoners, something like you do in an ordinary jail?

A. Yes, with some, yes.

Q. No one visited you during this period?

A. No.

Q. And presumably he told them during one of these visits that he was going to escape?

A. When I had to be truthful, then they told him that he has to escape.

Q. Now what did they mean?

A. Because most of his relatives were guerrillas and

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they were waiting for him to join.

Q. In other words, they were afraid his identity would be discovered because they were guerrillas?

A. Not that, but the fight had to be carried on.

Q. And it was his idea to take you along?

A. Yes.

Q. And when you arrived they already had the train tickets?

A. Yes, these persons had the train tickets.

Q. What papers did you have at this time?

A. None.

Q. What money did you have?

A. Maybe they gave us maybe couple of --

Q. What did they give you, Mr. Heine?

A. Tickets and a little money.

Q. How much money did they give you?

A. Four or three rubles.

Q. Was this Estonian money?

A. No, Russian.

Q. What is that in American currency? Do you know?

A. Now that currency I don't know.

Q. I am just trying to get some concept of --

A. This time it was one to ten, I think.



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Q. One ruble to --

A. One ruble to ten cents is all.

Q. What was this, a couple of dollars?

MR. CONNOLLY: Forty cents.

THE WITNESS: Yes, maybe a couple of dollars.

BY MR. PRETTYMAN:

Q. Well, how many rubles did they give you?

A. Four or three.

Q. Two or three?

MR. STANFORD: Four or three.

THE WITNESS: I don't exactly remember but I think so.

Q. Which do you think? What is your best recollection of how much money they gave you?

A. Oh, my, maybe three or four.

Q. You went to the train station?

A. Yes.

Q. You got on the train?

A. Yes.

Q. Now where did you go?

MR. RASKAUSKAS: Off the record.

(Discussion off the record.)

MR. PRETTYMAN: Back on the record.

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BY MR. PRETTYMAN:

Q. Do you know what the question is?

A. Yes. We came off the train by <sup>Vägeva</sup> Vaginén.

Q. Where is it? That is not on the map. What is it near?

A. It is half way from Tallinn to Tartu.

Q. How long did the trip take?

A. Two or three hours.

Q. And your friend did not have papers either?

A. No.

Q. Did he have the same amount of money you did?

A. I think so, yes.

Q. Did they take up tickets on the train?

A. Tickets were already.

Q. And you gave them your tickets?

A. What?

Q. You gave your tickets to the conductor on the train?

A. Oh, yes.

Q. Did they ask you to see any papers?

A. No.

Q. Did anyone ask to see any papers?

A. No.

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Q. You were not stopped at any point?

A. No.

Q. What happened after you got to the station?

A. He had relatives in this vicinity and we went there.

Q. You refuse to give their names too?

A. Yes.

Q. What happened when you arrived at their house?

A. We were overnight there and we went to that guerrilla group where his relatives were members.

Q. Nearby?

A. Not nearby, some ten or fifteen kilometers.

Q. How did you get there?

A. On foot.

Q. How many of you went?

A. We two and the guide.

Q. You still had no more money than you had before?

A. No.

Q. You still had no papers?

A. No.

Q. Were you stopped?

A. No.

Q. What happened when you arrived at this guerrilla group?

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A. We were greeted and from that day on I began my guerrilla life.

Q. Where was this?

A. In the district of Vaginen -- I am sorry, in the district of Jarmamaa. It is about here (pointing on map) and we move in this area here.

Q. Mr. Heine, correct me if I am wrong here now, but I think you have pointed to an area south of Tapa.

A. Yes.

Q. And east of Rapla and Jarva Jaani. Is that one town?

A. Jarva Jaani?

Q. I am trying to find out now whether Jarva Jaani is one town.

A. That is a town, but --

Q. What is the name of that town?

A. Jarva Jaani.

Q. That is one word?

A. Yes.

Q. So the area you have described is south of Tapa and east of Rapla and Jarva Jaani; is that right?

A. Yes.

Q. And just north of Rakke?

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A. Yes.

Q. How many were in this group? How many guerrillas, fighters, were there in this group in the area you have just now described?

A. There were about eight.

Q. Had you known any of them before?

A. No.

Q. You met them all for the first time on this occasion?

A. Yes.

Q. Who was the leader of this group?

A. Because he is dead I can say that. He was formerly an Estonian Army Captain called -- his name was Endel Parts.

Q. How did he die?

A. He was shot down on a guerrilla raid.

Q. While you were still there?

A. Yes.

Q. Or after you left?

A. I was still there.

Q. How many others of the eight have survived? Do you know?

A. As far as I know, about three.

Q. I take it you do know the names of these eight?

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A. No, not all.

Q. I am not asking you for the names now. I am asking you do you know the names of the eight?

A. Not of all.

Q. Well, how many do you know?

A. I can give one name, who is dead, too, Ula Punsuag. <sup>U/o Punsuag</sup>

Q. I am sorry. I did not get the last answer as to how many of these names.

A. The name was Ula Punsuag.

Q. I am sorry if I am retracing ground, but how many names do you still remember out of the eight?

A. About four.

Q. And how many of the eight are still living?

A. Three.

Q. And are the three among those whose names you remember?

A. Yes.

Q. And have you ever seen the three since you have come to Canada in 1957?

A. No.

Q. Do you know their whereabouts now?

A. Approximately, yes.

Q. Are they in Estonia?

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A. Yes.

Q. Are these prisoners?

A. No.

Q. They are free to go about?

A. Yes.

Q. Are those three still engaged in guerrilla activities?

A. No.

Q. What are they doing?

A. They are regular Estonian citizens now.

Q. What city?

A. I can't say that.

Q. You mean you decline to answer?

A. I do not know that.

Q. You do not know?

You have given two names that you do remember.

What are the other names that you remember?

A. I can't give these.

Q. You decline to give them?

A. Because these may --

Q. Are those the three that are alive?

A. Yes, they are alive.

MR. STANFORD: The other one I think he has named here.

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BY MR. PRETTYMAN:

Q. Well, are there any that you have not named whose name you remember, who subsequently died?

A. No, I don't remember. It was the practice by many of these guerrilla fighters to not reveal their real identity, only false names.

Q. What name did you give for yourself?

A. Erik.

Q. Last name?

A. No, I didn't give it.

Q. You never gave them your last name?

A. Yes.

Q. Your friend knew your real name?

A. Yes.

Q. What did he know it as?

A. Heine.

Q. He knew your real name?

A. Yes.

Q. He knew you had been engaged in the flag incident?

A. Yes.

Q. You knew he knew your whole background?

A. Almost, yes.

Q. What didn't he know?



45

A. For example, he knew that I had been a political police assistant, but he didn't know exactly what and whom I interrogated or whatnot.

Q. You didn't tell him?

A. He knew that I had been that himself already.

Q. Some of the details of your life you did not tell him?

A. Yes.

Q. Is your friend still alive?

A. Yes.

Q. Is he in this country or in Estonia?

A. In Estonia.

Q. Is he a prisoner?

A. No.

Q. He is free?

A. Yes.

Q. How long were you with this guerrilla group?

A. Until 1950.

Q. So you were with the group for one, two, three -- over three and a half years?

A. Over four years.

Q. Over four years?

A. Yes.

46

Q. And you only remember the names of four out of the eight?

A. Yes.

Q. All right. We are now in July of 1946. You have joined this group of guerrillas. Tell us about your activities with that group.

A. The main purpose was to stay alive and inflict on the Communists as much damage we could do.

Q. Where did you live?

A. In the forest.

Q. In a home?

A. No, in a bunker.

Q. In an old German bunker?

A. No, we, ourselves, took wood and -- you have to remember that in the first years after the war, '45, '44, '46, the guerrillas were quite safe in the forest because Russians didn't dare to come in very often.

Q. How many Estonian guerrillas do you estimate there were in that area? Do you know?

A. I think about 5,000 or so.

Q. And they operated in little bands?

A. Yes.

Q. Small groups?

47

A. Yes.

Q. Did you have contact in your various groups or did you operate strictly on your own?

A. With few groups we had contact, nearby.

Q. So your group of eight would contact other small groups from time to time?

A. A couple, yes.

Q. But primarily you operated with the original eight people during this five-year period?

A. Yes.

Q. Now tell us some of the things that you did. First of all, did you stay in this one woods during the entire five years, or did you go from town to town? Tell us in some detail, Mr. Heine, about your activities in that period.

A. We didn't go from town to town but from one place in the countryside, from one forest to another, when most of our exploits were, I can say. I think I can use that expression. Of course I am proud of what all my life. It was when I went -- it was 1947, and in August, when I went voluntarily to Siberia and brought back seven Estonians deported.

Q. What month did that happen?

A. '47 in August.

48

Q. All right, let's cover first in the period of July '46 and August '47.

Were there any girls in this unit?

A. Yes.

Q. How many were girls?

A. One.

Q. And is she still alive?

A. Yes.

Q. Is she in Estonia?

A. Yes.

Q. What was her job?

A. To cook for us, to repair our clothes and to fight when it was necessary.

Q. Was she about your age?

A. She was younger.

Q. What does she do today?

A. I don't know.

Q. You have never heard anything about her?

A. No.

Q. You do remember her name?

A. First name, yes.

Q. Would you give us the first name?

A. Why, there is no harm, I think. It is Karin.

49

Q. Spell that, would you?

A. K-a-r-l-n.

Q. You don't know her last name?

A. No.

Q. You never called her by her last name?

A. No.

Q. During the five years?

A. No.

Q. During this period between July '46 and August of '47, did you have any papers, in that period, now?

A. We began to obtain papers in the winter of '46, '47.

Q. Where did you get papers? Where did you get them?

A. First papers we got from Tartu.

Q. Where did you get them?

A. We paid for the first ones. We paid for them with money and spirits.

Q. Liquor?

A. Liquor, booze.

Q. Where did you get the money?

A. For example, that was '46 -- we made a raid on -- let's get that clear. How is it where they make butter and so on out of milk?

MR. STANFORD: A dairy?

50

THE WITNESS: Dairy, yes. We got butter for our supplies and money.

BY MR. PRETTYMAN:

Q. This was an Estonian dairy?

A. Yes.

Q. And you stole supplies?

A. Yes.

Q. Did you have to hurt anybody?

A. Not Estonians.

Q. Well, did you hurt Russians?

A. Oh, yes.

Q. There were Russians at the dairy?

A. No, they chased us after we had been at the dairy.

Q. What did you do, shoot them?

A. We protected us and shot at them. They chased us and consequently we got out of that thing safely.

Q. How many chased you?

A. Oh, there would be maybe thirty or forty MKVD soldiers.

Q. And there were eight of you?

A. Ten.

Q. Where did the other two come from?

A. We -- no, we were ten. There were eight.

51

Q. There were eight guerrillas when you arrived and then the two of you?

A. There were ten.

Q. And you shot at the Russians during that raid?

A. Correction, please. I know my friend's name and myself and four of the others, so that is six out of the ten.

Q. Six altogether?

A. Yes.

Q. During this escape you shot at the Russian soldiers?

A. Yes.

Q. Did you kill any of them?

A. I hope so.

Q. Did you see them fall?

A. Yes.

Q. How many?

A. How can you tell at that distance?

Q. I mean ten or --

A. I think at best I can say three or four I saw fall.

Q. They must have been pretty close.

A. Yes, yes. Not especially.

Q. Close enough for you to shoot and hit?

A. Yes.

52

Q. Did they kill any of you?

A. No.

Q. Did they wound any of you?

A. Yes.

Q. How many?

A. One.

Q. Who?

A. Me.

Q. Did the bullet go through?

A. No, glazed my leg.

Q. Were you hospitalized?

A. We didn't have hospitals in the guerrilla units.

Q. Or you felled or did you fall or did you keep running?

A. I limped out of that scrap.

Q. Now as best you can remember, when did that incident occur?

A. In July, I think.

Q. About 1946?

A. Yes.

Q. This was right after you joined the group?

A. Yes. That was my first job.

Q. Now speaking of jobs, did you have any employment



53

during this time, during this period of August 1946 and August of 1947?

A. No.

Q. Did anyone in your group have a job?

A. No.

Q. Well, how did you get the money to do what you did?

A. Mostly when we had to get money we robbed it or afterwards we had a very good source of getting money.

9

Q. What was that?

A. A relative of my friend, whose name I can't say, his relative was a numismatic.

Q. What?

A. A numismatic, collects coins, and that was a pretty good fortune. They were high price everywhere and when we really badly needed money then we sold these old platinum and silver coins.

Q. She had a collection of what, rare coins?

A. Old Russian, old platinum and silver coins. Yes.

Q. What was the total value of these coins?

A. Oh, I don't know how much it cost, but for example there were about 200 gold coins, about a couple of dozen platinum coins and seven -- maybe about 14 pounds of silver, pure silver.

54

Q. Do you have any estimate of what the total value was?

A. No, I don't know.

Q. She gave these to you?

A. Yes.

Q. Were you arrested at any time between July '46 and August '47?

A. No.

Q. Were you stopped and interrogated at any point?

A. No.

Q. So I take it you did not come in personal contact with any Russians over that period?

A. Only over the barrel of a gun.

Q. Well, how much raiding or how many raids did you engage in through this period of July '46 to August of '47?

A. I believe when we attacked there were two occasions.

Q. You already told us about one.

A. That was after that.

Q. Tell us about those two attacks.

A. You have to know that to get full member of a guerrilla force you have to kill with your own hands a government officer or soldier and that I did that same year. I killed a district of Viljandi officer.

55

Q. Was he in uniform?

A. Yes.

Q. How did you find him?

A. You have to know also that we had all over the country helpers and sources of information and we were told that that man was coming with his car into that town and we went there and met him and fired at the car.

Q. You shot at the car?

A. Yes.

Q. Did you kill him?

A. Yes.

Q. When did you have this killing when you had to do it with your bare hands?

A. He was still alive, wounded severely, and I shot him myself.

Q. You then went up to the car and shot him?

A. Yes.

Q. Where?

A. In the face.

Q. And did this satisfy the task that you had to undergo?

A. Yes, that was the usual thing, yes.

Q. What was the other incident that you were engaged in?

56

Was that one of the two incidents that you mentioned?

A. Yes, and the next one was, I think in '47, in the spring. We attacked a Russian Army convoy of about four cars and trucks.

Q. Soldiers?

A. We thought they were soldiers in them but there were only drivers, four drivers.

Q. Did you kill the drivers?

A. Yes.

Q. What did you do with the trucks?

A. Burned them.

Q. They had moved supplies in them?

A. Only guns that they had themselves.

Q. And those were the two raids that you had engaged in during the period up to August of '47?

A. Yes.

Q. What firearms were you carrying during this period?

A. This period we had mostly German arms.

Q. What did you carry?

A. Machine gun, German machine gun.

Q. Any sidearms?

A. Yes.

Q. What?

57

A. German --

Q. Like a Luger?

A. Yes, yes.

Q. You carried a machine gun and sidearms?

A. Yes.

Q. Where did you get these?

A. From that group that I went into, from them.

The guerrilla group had plenty of arms.

Q. Where had they gotten them?

A. When the Germans left there were large ammunition stocks and every kind of arms and they blew that up but not all of these arms perished.

Q. What towns did you go into during this period of July '46 to August '47?

A. '46 to '47? Tartu.

Q. That was the only one?

A. I believe so, yes. '47, yes. Tartu and Tallinn, I can say so.

Q. And how many of your group of ten were killed between July '46 and August of '47?

A. I don't think none. None.

MR. PRETTYMAN: Let's take a break.

(Short recess.)

NS f1

MR. CONNOLLY: Back on the record.

BY MR. CONNOLLY:

Q Up through July '47 you therefore lived in the woods as a guerilla and lived with these eight other people -- nine other people that you told us about?

A Ten.

Q Ten counting yourself?

A Yes.

Q During that period of time, you went on three raids, the dairy, the assassination of the N. K. V. D. officer and the attack on the Russian convoys?

A Yes.

Q You lost no men?

A No men.

Q You had received superficial or surface wound on your knee which had healed without damage?

A Yes.

Q Did it leave a scar?

A Yes.

Q Now, I understood you to say that you were very proud of an exploit that commenced in the beginning of August of 1947 when you went to Siberia?

A Yes.

Q What was this exploit?

A I went to Siberia and brought back seven deported Estonians, back to Estonia.

Q Where in Siberia did you go?

A That was near Novosibirsk.

(Whereupon a map was handed the witness who examined it.)

THE WITNESS: It isn't on that map. It was on the river Ob.

BY MR. CONNOLLY:

Q It is on the river Ob?

A Yes.

Q Further east than this map shows?

A Yes.

Q How far east of the Urals?

A A couple of thousand miles, I believe.

Q How long was the trip from Tallinn or where did you leave from in Estonia?

A From Tallinn.

Q What was the one way distance from Tallinn?

MR. STANFORD: Do you understand?

THE WITNESS: From Tallinn to Novosibirsk?

MR. STANFORD: Yes.

THE WITNESS: I believe four thousand kilometers.  
I believe, I don't exactly know.

BY MR. CONNOLLY:

Q That would be about twenty-five hundred miles.

All right, who were the seven Estonians that you  
wanted to get?

A They were deported in 1941 from Estonia.

Q By the Russians?

A By the Russians.

Q Who were they?

A Estonians.

Q But what were their names?

A Again a question. I hope I don't make them much  
harm. I can reveal some of them.

Q I am sorry, I didn't understand you?

A I thought in the beginning that there maybe when  
I reveal their names, they can be punished as much as these  
guerillas. I didn't give their names, but I hope to  
show you that I try to be cooperative and I will give you  
these names I remember from that.

Q All right.

A One was Mr. Kirik.

Q Give first names and second names?



A I always give now the second names.

Q Will you supply the first names also?

A I don't remember the first name of that man.

Q How do you spell it?

A (Spelling) K-i-r-i-k.

Q All right, who was number two?

A Miss Meeta -- that is her first name -- Raha.

Q (Spelling) M-e-t-a?

A Yes.

Q This is a woman?

A Yes.

Q Number three?

A The first name is Mary, Mary Raha, (spelling)  
M-a-r-y.

Q Yes?

A And there was Mrs. -- that is her family name --  
Reitak (spelling) R-e-i-t-a-k.

Q Yes?

A And then there was a girl named Linda Luik.

Q How do you spell her last name?

A (Spelling) L-u-i-k.

Q Is that five?

A And then there were two small children. I don't

remember their names.

Q Children of whom?

A From -- there was one, a little boy, his parents had died. There were no relatives there and I had the little girl, her mother gave me her when I was on the way back, to bring her back to Estonia when I was on the way to come back.

Q Who was the seventh person?

A There are five elders and two children, five adults and two children.

Q Kirik, Raha, Ritak and Luik?

A Yes.

Q And two small children?

A Yes.

Q That is six.

A No, that was all, then.

Q Not seven, six?

A Six.

Q Seven including you?

A Seven including me, yes.

Q Who was taking care of the small boy?

A That girl, Linda Luik.

Q How old was Linda Luik? You said she was a

young girl?

A About eighteen, seventeen.

Q Mrs. Reitak, how old was she?

A Over forty, I am sure.

Q Over forty?

A Yes.

Q Miss Raha?

A About at this time, I believe, twenty-four or five.

Q And Mr. Kirik?

A Mr. Kirik this time about thirty.

Q You don't remember his first name?

A No. Maybe Johan but I am not sure of that.

Q How old was the small boy?

A Six years, I think.

Q And the girl?

A About five, I believe.

Q Now, who told you about these people?

A Nobody.

Q When you started out from -- Why did you start to go into this four thousand kilometer trip into Siberia?

A In this vicinity where we moved there was an old couple, farmers and old pair of wife and a man.

Q Husband and wife?

A Husband and wife. They were very much help in food and clothing and caring for sick and so on and to reward them for their help. If the Russians would have known that they would have shot them or sent them to Siberia in slave labor camp. To reward them for that we decided that they had a daughter deported to Siberia in '41 and this time, in '47, they had received the first letter from her. She was then in very bad condition.

Q Where was she?

A In Siberia.

Q Where in Siberia?

A North of Novosibirsk. We decided to go after that daughter of that old couple and bring her back to her parents.

Q Did you do that?

A No.

Q Did you ever find the daughter?

A I found her.

Q Was she dead?

A No, she was afraid to leave.

Q I see. As far as you know, she stayed there?

A Yes, as far as I know.

Q What was her name?

A I am sorry. I can't say that name, because when I reveal that name, then that can damage this couple who protected and helped us very much.

Q Are they still alive?

A I don't know that, indeed.

Q How old were they then in 1947?

A The old couple?

Q Yes.

A The man was about sixty, that I know. He was deported in '49 too, to Siberia and the woman -- the wife -- escaped on that occasion and she is about fifty-five or so, near sixty, at this time, when I met them last time.

Q So she would be seventy-five if she is still alive?

A Yes, if she is alive, yes. I doubt that.

Q But you don't want to reveal their names?

A I don't, because then all that vicinity is going to hell.

Q All right. Now, did anyone accompany you on this trip?

A No.

Q You went by yourself?

A Yes.

Q Did you have any money?

A Oh, yes.

Q What money did you have?

A I had Russian rubels.

Q Where did you get those?

A We sold some of our coins and that old couple gave us their savings, what they had and we had -- I had about ten thousand rubels.

Q Did you have any pepers?

A Yes, I had.

Q Where did you get the papers?

A '47 -- winter '46, '47 we began to search for false documents.

Q What?

A False documents, false passports, and for this purpose I went a couple of times to Tartu and obtained there first -- the first time -- two false -- they were original passports, but we made it over for our purpose, for us, for our use. We buy these for liquor, booze and money.

Q For what and money?

A Booze, liquor, spirits.

Q Did you use one of these passports?

A Yes.

#2

Q What was the name?

A Priit Poltsamaa.

Q Priit?

A His family name is Poltsamaa.

Q How do you spell that?

A (Spelling) P-o-l-t-s-a-m-a-a.

Q Did he sell you his passport?

A Yes.

Q In exchange for whiskey or liquor?

A Yes.

Q And food?

A Money.

Q How much?

A I believe it was a thousand rubels.

Q A thousand rubels?

A Yes.

Q Did you get any other papers from this Poltsamaa?

A No .

MR. RASKAUSKAS: I think he wants to make a correction. Do you have a correction you want to make?

THE WITNESS: I want to say that it was a thousand rubels of money and twenty liters -- I don't know how much a liter is -- twenty liters of booze. That was the

correct price.

BY MR. CONNOLLY:

Q Did you need any other identification papers? You needed travel permits, didn't you?

A Yes, I did.

Q Where did you get that?

A We had obtained regular blanks for these, the "kamandirovkas".

Q You had obtained these travel permits in blanks?

A Yes.

Q How many?

A There were maybe ten, twenty.

Q How many passports had you obtained over the months between '46 and '47 to start on this trip?

A Two.

Q Poltsamaa's and what other?

A Another one was for my friend.

Q For the friend that went into the forest with you?

A Yes.

Q Whose name you have not given us?

A Yes.

Q Whose name was on the passport that you got?

A I don't remember any more that name, but it was a



policeman's passport.

Q How did you get that?

A Now, we have come to that question, why I wanted these names of these two girls stricken from that record, because these two girls obtained that for us.

Q Obtained the passport from the police officer?

A And for myself, too, through them; from that person I got myself and another -- my friend got that policeman's passport.

Q Wait a minute. I am confused here. You mean that you did not deal with Priit Poltsamaa?

A Not directly.

Q But the two girls did?

A Yes.

Q The two girls that you had dated in Tartu --

A They were my school fellows, school comrades.

Q That you had known when you were last in Tartu on leave from your policeman's duties in Tallinn?

A Yes.

Q Presumably they weren't young girls any more?

A Not any more, yes, but for me they were young girls.

Q But you did not deal directly with Priit Poltsamaa?

A No.

Q You really don't know, then, whether Priit Poltsamaa got the twenty liters of liquor and the one thousand rubels or not, do you?

A Oh, I saw him afterwards. I know that.

Q Did you know Priit Poltsamaa?

A Then I met him, yes.

Q Did you know him before?

A No.

Q Have you seen him since?

A No.

Q When did you meet him?

A When I had got that passport and we were led together.

Q How were you led together?

A We had a party there with the booze.

Q You had a party?

A Yes.

Q And you drank part of it?

A I don't drink much.

Q Did you drink it? You said you had a party?

A Oh, yes, I drank, but you asked, did you drink that much --

Q No, I didn't.

A I am sorry, I misunderstood.

Q I asked, did you drink part of it?

A Oh, yes, yes.

Q Priit Poltsamaa, where is he to your knowledge?

A Last time I heard of him, he was in Siberia prison camp.

Q Why did he get sent to Siberia?

A Because on account of my -- myself -- of me.

Q Because you used his passport?

A Yes.

Q He was not a guerilla fighter?

A No, he was a ballet master.

Q What does that mean?

A Artist, ballet.

MR. RASKAUSKAS: Ballet master.

BY MR. CONNOLLY:

Q Your friend did not go to Siberia with you?

A No.

Q So you set out or set forth with a passport and ten thousand rubels?

A Yes.

Q Some blank travel permits?

A Not blank. We filled that out before I went on

my trip.

Q You filled it out before you went?

A Yes.

Q For whom did you fill it out?

A For Priit Poltsamaa.

Q Anybody else?

A No, only for myself.

Q How many did you take?

A Only one.

Q All right. You had to buy tickets to go on the train?

A Yes.

Q I take it that there were very few people in 1947 that were buying tickets from Tallinn, Estonia to Siberia, weren't there?

A Very few, yes.

Q Were you asked some questions about this?

A No.

Q The station master didn't think this was peculiar?

A In that blank there was written that I was commanded to go to Novosibirsk to dance or perform.

Q You mean the travel orders ordered you to go to Novosibirsk to perform as a performer?

A Yes.

Q You portrayed yourself as a ballet dancer?

A Yes.

Q Were you really that light on your feet?

A I can't dance after all.

Q And you didn't have any teeth?

A No, but they don't show as you have seen.

Q Not even when you smile?

A I smile very seldom.

Q Well, didn't the police officers, the N. K. V. D. officers chide you and kid you about being a ballet dancer?

A What police officers?

Q You didn't encounter any?

A Yes.

Q Incidentally, where was Poltsamaa from?

A From Tartu, I think. He was performing in that theater of Tartu.

Q And his fame had spread all the way to Novosibirsk? Is that right?

A No, I didn't perform nowhere there.

Q All right, you set out on this train trip. It must have been a long and arduous trip?

A It was, yes.

Q How long did it take?

A I went out beginning of August and came back end of September, I think.

Q The beginning of August?

A Yes.

Q What were your main stops en route?

A I went to Tallinn. There I bought a plane ticket.

Q A plane ticket?

A Yes.

Q I thought you were talking about going by train?

A No, by train I went to Tallinn, yes.

Q All right.

A And there I bought a plane ticket and flew to Moscow.

Q Yes.

A And from Moscow I obtained a ticket to Novosibirsk.

Q Plane ticket?

A No, train ticket.

Q Train ticket?

A Yes, to Novosibirsk, and from Novosibirsk per ship. I went up north on the river Ob.

Q Now, in Tallinn were you challenged at all by any police or by any N. K. V. D. or security forces?

A No.

Q When you got aboard the plane, did anyone ask you to see your identification papers?

A By obtaining the ticket, there I had to show my passport and that "kamandirovka".

Q Did your passport have a photograph on it?

A Oh, yes.

Q You didn't look like Priit Poltsamaa, did you?

A Not at all.

Q Well, whose picture was on there?

A Mine.

Q Who took it?

A In a nearby village they made a picture of me and I took off Poltsamaa's original picture and put on mine.

Q Well, wasn't the picture cancelled, didn't it have a cancellation stamp?

A There were two stamps.

Q On the picture?

A Yes, one pressed on (indicating) and another with ink.

Q How did you duplicate that?

A For the press type I carved out -- of lead -- and pressed --

Q You did what with lead?

A I carved out stamp, carved it out of lead for that corner where that was press stamped. I carved exactly these letters out of lead and when we put that picture on the passport, then, before I put that picture on, my picture on the passport, I wet my picture very thoroughly so it was very soft, and then I pressed that image of that stamp on the corner exactly as it was on the passport, and I put that on the passport and let it dry and the ordinary stamp that is very easy to remove from a passport or every place, with boiled egg. You shell the egg and then roll that over the ink and the ink -- it takes off that image and then you put back again, the stamp goes on again.

Q Where did you learn that?

A That was common knowledge, I think, schoolboys and so on know that. I knew that.

Q Where did you get the lead?

A Oh, in Estonia there are lots of lead soldiers that children have.

Q Here in America too, but you don't make cancellation stamps of them?

A But I had to do.

Q You got the lead from lead soldiers and melted the



lead soldiers down?

A Yes.

Q Then you had a heap of lead?

A Yes.

Q Then, what did you do?

A I had to see that at least one side was smooth and then I carved --

Q How did you get it smooth?

A When you melt that out, you drop it on the table and when it gets cooled off you have a smooth surface.

Q Doesn't it have some folds in it? (spelling)  
F-o-l-d-s?

MR. RASKAUSKAS: Wrinkles?

THE WITNESS: It won't bother much.

BY MR. CONNOLLY:

Q Then you cut into the face of the --

A The smooth surface, yes.

Q The smooth side?

A Yes.

Q What do you use for cutting instrument?

A How I can say? A needle, a big needle, for repairing socks.

#3

Q How will that make an impression on the photograph?

A I am sorry?

Q How will that make an impression on the photograph?

A Exactly like the original.

Q But, Mr. Heine, the original has protuberances, it isn't recessed like you have done your cutting?

MR. RASKAUSKAS: I object, he didn't say he made a recessed cutting.

MR. CONNOLLY: He did, too.

MR. RASKAUSKAS: He said he carved it, he didn't say whether it was concave or convex or protruded or didn't protrude. He just said he carved it.

BY MR. CONNOLLY:

Q How did you go about carving it? You took a needle?

A Yes.

Q And you put the letters on the face of the metal?

A I needed only two or three letters, no more, and that one circle -- that was a quarter of a circle -- that I needed for that corner to match the old stamp, what was --

Q All right, now, how did you do it? I don't care how much you had to do but how did you cut it?

A With a needle. Piece by piece I took it out and maybe with some -- For example, I smoothed it, especially

that circle so it comes out very smooth and nice.

Q All right, you made indentations, then, on the face of the lead, did you?

A Deep, yes.

Q And you pressed that against the photograph?

A I put that face against that impression and then I took it down and there was the impression that I needed.

Q You put the face of the picture against the lead?

A Yes.

Q Then what did you do?

A I took it off.

Q Did you push down on it?

A Oh, yes.

Q When you got to Moscow, did you have to change planes?

A No, that was the end station for me.

Q That's right. I forgot, you had to go from the plane to the train station?

A Yes.

Q Now, did you have to go through any check points when you got into Moscow?

A No.

Q Anybody coming in from Tallinn, Estonia they let

in the city without looking at their papers?

A That was also with Russians.

Q But you didn't have to go through the police, you didn't have to show your passport?

A Only when I obtained the ticket.

Q I see. Did you stay overnight in Moscow?

A I think I stayed overnight and the next day, yes.

Q Was it the first time that you had been to Moscow?

A Yes, the first time.

Q How did you like it?

A The dirtiest city I ever saw.

Q Dirtiest city?

A Yes.

Q What was dirty about it?

A It was full of thousands, a hundred thousand of every kind of people. By this time in Ukraine there was a hunger, much hunger, and thousands and hundred thousands of people tried to use the train to get to places where there was more food, and all the railway stations were full of these sleeping and sitting and waiting people.

Q When you went to the train station you wanted to get a train to Novosibirsk?

A Novosibirsk.

Q Novosibirsk?

A That is in translation New Siberia.

Q Were there many people going in that direction from Moscow?

A Probably there were thousands who wanted to go, but very few got the privilege.

Q But you did?

A I did.

Q When you got to the station, did you have to buy a ticket?

A I wouldn't buy, because it was sold out almost two weeks or more. You didn't have a chance to get a ticket by usual ways.

Q So what did you do?

A I contacted some speculants. Is it right to say so?

MR. PRETTYMAN: Speculators?

THE WITNESS: Speculators who traded with train tickets and I paid about five hundred rubels to get a ticket plus I don't know how much it cost. About a hundred rubels.

BY MR. CONNOLLY:

Q How much did the plane ticket from Tallinn to Moscow cost?

A That cost about over three hundred rubels.

Q Five hundred for the train ticket to Novosibirsk?

A Yes.

Q Did you stay in a hotel in Moscow?

A No.

Q Where did you stay?

A On that station.

Q You spent the night in the station?

A Yes.

Q Did you sleep in the station?

A Like every other person there.

Q Did they have beds there?

A No, they slept on the street.

Q How long did it take you to get by train from  
Moscow to Novosibirsk?

A I believe four days.

Q What clothes were you wearing?

A A jacket, then breeches I think, you know, these --

Q Riding breeches?

A Yes, riding breeches and boots and a shirt.

Q Was that how a ballet master was dressed?

A That was the most distinctive clothing that any  
Russian could dream of, breeches and boots. That was what

an ordinary Russian would --

Q What makes it distinctive?

A Because the boots, leather boots and breeches.

Q You said it was a very distinctive clothing. Why was it distinctive?

A Because not many could afford leather boots this time in Russia.

Q Was it typical of the dress that a ballet master would affect?

A No.

Q Very few people were riding, were they, horseback? Didn't this attract attention to you? That is what I am trying to get at.

Q You see, breeches are very usual in Russia. Most Russians wear breeches, but they are very, very badly cut and of very bad material. I had very good material. I had these of very good material. Everyone almost wear boots too, but they are not of leather, but material, you know, of what tents are made.

MR. STANFORD: Canvas?

THE WITNESS: Canvas.

BY MR. CONNOLLY:

Q Where did you get these boots?

A The old farmer gave me -- that was his son's.

Q And the breeches?

A That was too.

Q That must have attracted a lot of attention in Estonia, didn't it?

A No, in Estonia there were left many -- much of old clothing, good quality clothing.

Q All right, did you have to go through any check points? Were your papers searched or were you interrogated between Moscow and Novosibirsk?

A No.

Q When you got to Novosibirsk, you had to get aboard a boat?

A Yes.

Q Did you go up a river?

A Yes.

Q North?

A North.

Q How far?

A I believe that I am correct, about six or five hundred or so kilometers.

Q Did you spend any time in Novosibirsk?

A No, I wanted to go as fast as possible. Maybe a



day.

Q Did you have any problem hooking passage on the boat?

A No.

Q Were your papers examined at all?

A No.

Q No check points at all?

A No.

Q When you got to Novosibirsk, nobody asked you where you were going to go to perform?

A No, nobody looked on my papers.

Q The papers that you had you showed only once at Tallinn when you bought your ticket?

A Yes.

Q Obviously they required some official's signature, did they not?

A No.

Q Who signed the papers directing you to go to Novosibirsk?

A The passport --

Q The travel --

A The travel -- I don't know whose sign we put on there, but --

Q Who was supposed to sign it?

A It was these -- the blanks were from that district where I moved, obtained from that central committee of that county and there were stamps of what was needed. We would only sign under that, a name, and fill out the name and fore-name and where to, for what purpose.

Q You mean it already bore a signature and a stamp?

A Only stamped.

Q That is not my point. I am not asking you about stamps. I am asking you whose signature it bore?

A I don't remember whose name we put on there.

Q Who was supposed to sign it?

A It is supposed to be signed by some official.

Q All right, which official?

A That official of that county.

Q All right, which official was that?

A The head of that county.

Q That's the same thing. Who was he supposed to be, what is his title?

A Chairman.

Q Of what?

A Of the county, Executive Committee Chairman.

Q You don't remember what his name is?

A No.

Q The chairman of what county?

A Tamsalu.

Q Where?

A Tamsalu.

Q Tamsalu?

A Yes.

Q Is that the name of the town?

A That is a small town, yes.

Q Is it also the name of a county?

A No, that is the name of the town, yes.

Q Well, when did you go to Tamsalu?

A I was often there, yes.

Q Often?

A Yes.

Q These travel orders were stamped in blank?

A Yes.

Q They were supposed to be signed by the chairman  
of the Tamsalu District?

A Yes.

Q And you forged the stamp?

A I believe so, yes.

Q Do you know?

A I don't remember that, whose name I put under that.

Q Did somebody get these for you?

A We made them ourselves.

Q Where did you get the blanks?

A I told you earlier that we had contacts and friends everywhere and they obtained that for us, even in that Central Committee.

Q Well, did somebody get these forms in blanks from the Central Committee in Tamsalu?

A Yes.

Q Who is that person?

A I can't name her name now.

Q A woman?

A I slipped. It is a woman.

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Q Did she work for the Central Committee?

A No.

Q Did she have friends on the Central Committee?

A Yes.

Q Is she still in Estonia to your knowledge?

A Yes.

Q Have you seen her?

A No.

Q Have you corresponded with her?

A Once only, yes.

Q Since you have been in the West?

A Yes.

Q How long ago?

A Five years ago, I believe.

Q Did she write back?

A Once, yes.

Q Do you have her letter?

A I don't know exactly.

Q All right, now, how does it come about that the Central Committee of a little town in Estonia called Tamsalu orders a ballet master from Tartu to go to Novosibirsk?

A They don't care for these details. The most important thing is that you have something to show. They don't check.

Q This wouldn't cause anybody to get upset or to raise their eyebrows as to how Tamsalu, a little town, can order a man from another town all the way, four thousand kilometers into the middle of Siberia to perform at a recital?

A I don't think so.

MR. STANFORD: I think you have made an incorrect assumption in your question when you say that this was an order by the chairman of that small town, since it really

was a permission on the part of that district to permit him to go and there maybe an order directed to the chairman. If you pre --

MR. CONNOLLY: If you want to hold up your right hand I will have you sworn and we will take your deposition. Are you speculating or have you been to Siberia and back?

MR. STANFORD: No, but I think for you to characterize this as an order is improper.

MR. CONNOLLY: I didn't. He did.

MR. STANFORD: You said "How did it happen that a chairman of a small town ordered a man to go all the way to Novosibirsk?".

MR. CONNOLLY: He said he had orders directing him to go to give performances in Novosibirsk.

MR. STANFORD: That was on the particular paper.

MR. CONNOLLY: That is what he said.

MR. STANFORD: He testified what was on the paper. Whether or not this was a directive which originated or was initiated by this chairman is something that you are speculating.

MR. CONNOLLY: I think you misread the record here.

MR. STANFORD: I don't think so. I think that --

MR. CONNOLLY: Let us ask this gentleman.

BY MR. CONNOLLY:

Q What was the procedure in order to travel in the Soviet Union in 1947?

A You had to have your passport and this direction papers.

Q How did the direction papers come into being?

A Come into being?

MR. STANFORD: How did they originate?

THE WITNESS: Some gets ordered from some factory to another and he gets papers.

BY MR. CONNOLLY:

Q Who gets the papers?

A That person who has to go somewhere.

Q All right, and you got them from the Central Committee at Tamsalu, right?

A Yes.

Q Where did they get them? Where does the Central Committee at Tamsalu get them?

MR. STANFORD: I think --

MR. CONNOLLY: Let him answer, please.

MR. STANFORD: I think, since we are speculating --

MR. CONNOLLY: I am not speculating at all. You

haven't been through Siberia, this gentleman has. I am asking if he knows how people travelled in 1947. I want his deposition, not yours.

MR. STANFORD: Yes, but you are interweaving how would you do it and how did it happen, hypothetically, so you can't tell --

MR. CONNOLLY: I am not interweaving and I am asking for an absolute fact that this gentleman knows. If he doesn't, he can say so.

I am asking how people in 1947 travelled in the Soviet Union, what papers did they need. He has told me they needed a passport and they needed travel orders and I am asking where did they get the travel orders, and he said "From the Central Committee in the district where they lived", and I asked him how did the Central Committee in the district where they lived know how or why to issue orders and that is when you interrupted to start telling me --

MR. STANFORD: That is a different question. I think that is a fine question. Proceed with that.

BY MR. CONNOLLY:

Q How did the Central Committee in the district at Tamsalu know how to give papers to somebody who wanted to



travel?

A They go to Central Committee and ask for them.

Q What Central Committee?

A For example, when they are sent by a factory or something, then they go there and get papers from that factory, that I have to go there, please give me "kamandirov-kas".

Q My point is, how does the Central Committee who issues the travel orders know to whom to issue them and where they are to be issued to?

MR. RASKAUSKAS: He just answered that question. He said when a man is transferred from one factory to an other he brings some credentials from the factory to which he is to be transferred to, shows them to the Central Committee and the Central Committee clears them and gives him the travel order based on this that it gets from a third place and the colloquy you had with Mr. Stanford was that you were trying to, I think, lead this witness or suggest that rather than a clearing of the travel orders taking place at the Central Committee, that the moves were initiated by the Central Committee. You were suggesting that and he had never said that.

MR. CONNOLLY: Let me straighten it out now.

BY MR. CONNOLLY:

Q For a person in the Soviet Union in 1947 to travel, he would have to get orders from the place where he was to go to and he would take those orders to the Central Committee in the district where he resided, is that right?

A I presume that is the way, yes.

Q Do you know?

A I don't know exactly.

Q You had to know enough in order to forge the papers necessary to take into Siberia, didn't you?

A The main thing in Soviet Russia was, that there was a stamp on the papers and signed a name, that was all. That was the main thing. Who signed or whose stamp --

Q Didn't make any difference?

A No.

Q O. K., back to the boat on the river Ob.

Did you have any trouble getting aboard this boat?

A No.

Q No police checks?

A No.

Q No security checks?

A No.

Q Was the boat crowded?

A Very crowded, yes.

Q And up the river Ob you went?

A Yes.

Q I think you said a couple of hundred kilometers?

A Yes, even more, I think.

Q To where?

A On the way they stopped to replenish their fuel,  
the wood.

Q What kind of boat was this, incidentally?

A Like you see here, riverboats, in old movies.

MR. PRETTYMAN: Paddleboats?

THE WITNESS: With paddles, yes.

BY MR. CONNOLLY:

Q A sternwheeler?

MR. STANFORD: That is a wheel in the back of  
the boat.

THE WITNESS: On the sides.

BY MR. CONNOLLY:

Q Where did you go?

A I went off that boat by -- I believe it was Pad-  
gornaja or Kalbaszhewa. I am mixed up.

Q What was your destination?

A Paktsar.

Q What was there at Paktsar, the name you mentioned as your destination?

A Maybe fifty or sixty miles from that place was the place where that daughter of that old couple was stationed.

Q That was a slave labor camp?

A No, there is a distinction. People who were deported in 1941, women and children, they didn't put them in slave labor camps, but sent them to far off places to work, in fishermen's brigades and logging, felling trees.

Q Logging camps?

A Logging camps, and so on and they weren't in prison camps.

Q They lived in some sort of communes, didn't they?

A Oh, yes, yes.

Q They lived under guard, they couldn't walk away, could they?

A It was restricted area around that district.

Q Was it policed at all, the area?

A No, only maybe checks and so on.

Q Check points?

A Yes, check points.

Q But it wasn't fenced or barricaded or surrounded

by any wiring?

A No, not at all.

Q All right, and what was the location of this place where the daughter of your old friend was located?

A I said twenty or thirty miles.

Q From Paktsar?

A Yes.

Q What was the name of it?

A I don't recollect that name of that kolhoz. She was in a kolhoz.

Q How do you spell that?

A (Spelling) K-o-l-h-o-z.

Q What is that?

A A collective farm.

Q Is it a collective farm?

A Yes.

Q A communal camp of some sort?

A Yes.

Q Did this place have a name?

A Yes.

Q But you don't remember it?

A I don't remember.

Q How did you know it was twenty miles north of

Paktsar?

A As I mentioned before, the daughter had written her parents back in Estonia that she lives there.

Q Could these people receive visitors?

A No.

Q When you got to Paktsar, did you start off out country, fifty miles?

A Yes.

Q In your riding boots, breeches and your jacket?

A Yes.

Q Did you meet any security police?

A Oh, yes.

Q Didn't they want to know what you were doing so far away from Novosibirsk?

A Correction for that. They could receive visitors, but that was in '47. I was incidentally the first Estonian who reached that region. Afterwards there were visitors, yes, but I was the first one.

Q You were like the Navahos in Boston in 1830?

Well, when you got to Paktsar, didn't you come across any security police?

A Yes.

Q Didn't they want to know what you were doing out

there?

A Not going. They checked my papers.

Q But you were supposed to be performing in Novosibirsk?

A I told them that I was visiting my sister there in this vicinity.

Q Where? In Paktsar?

A No, in that kolhoz, yes.

Q At the kolhoz, did there people allow visitors?

A Yes.

Q They were deportees?

A Yes.

Q Weren't they reported for anti-soviet political activity?

A Oh, yes.

Q So when you said that you had a sister in one of these places, that must have caused them to look upon you as a suspicious person?

A They were only interested in "Do you have a passport?", because --

Q You had a passport, didn't you?

A Yes.

Q And you had travel orders to Novosibirsk?

A Yes.

Q Not to Paktsar?

A Yes, but I said I was making a side trip to visit my sister.

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Q Is that what you told them?

A Yes.

Q Did you get to the kolhoz?

A Yes.

Q Did you see this woman?

A Yes.

Q Did you talk to her?

A Yes.

Q Did you spend the night there?

A Yes.

Q How long did you stay at the kolhoz?

A I believe the night and the next day.

Q Where did you stay?

A By her. She had a small hut there.

Q Did you say that you had come to take her back to her parents in Estonia?

A Yes.

Q She didn't know you from Adam's old fox, did she?

MR. STANFORD: She didn't know you?



THE WITNESS: I had a letter from the parents with me.

BY MR. CONNOLLY:

Q I see. What name did you give the N. K. V. D. for your sister?

A That name she had. She was married and had two children.

Q She was married? She had married in Siberia?

A No, she was married in Estonia but her husband was killed in the war.

Q Did you give the police her real name?

A That was her name, yes.

Q Did you seek to persuade her to come with you?

A Yes.

Q And she wouldn't do it?

A She was afraid, yes, very much afraid.

Q Why was she afraid?

A Oh, she had made very hard labor. She told me she had worked in a fisherman brigade and these logging brigades and year after year and she was physically and mentally not herself. She was afraid.

Q Did she introduce you to some friends in this area?

A She was the only Estonian woman in that kolhoz.

Q What did you do when you found out that you had come four thousand kilometers on a fool's mission?

A Well, I was very upset.

Q What did you do?

A I began to go back.

Q Did you look for some Estonians to take back with you?

A You didn't ask that, but I tell that now.

When I reached Paktsar, there were more Estonians, about a dozen or so in a small town.

Q In Paktsar?

A Not a small town but village.

Q Near Paktsar?

A In Paktsar.

Q How did you run into them?

A I asked these -- Incidentally, to make that record clear: When I went off that ship, that first ship, and -- It was at Padgornaja or Kalbaszhewa, I don't know -- I don't really recollect and reached --

Q When you got off the first ship and you have forgotten exactly where you got off? It is one or the other?

A Yes, I had to take a smaller ship because Paktsar is originally a river and that town Paktsar is named after

that river.

Q All right, so you transferred to a smaller boat and again no security checks?

A No.

Q No police?

A No.

Q And you got to Paktsar?

A Yes.

Q Tell me how you ran across these Estonians in Paktsar?

A I asked on arrival -- the arrival of a ship is a very big event.

Q I would think so.

A Yes, in this region, and there were Russians --

Q Does the ship come once a week?

A That I don't know. About so, yes, I think so.

Q And everybody in town comes down?

A Not everybody, but there were --

Q A number of people?

A A number of people.

Q Are the people in this area Asiatic in appearance?

A No.

Q They are European?

A Yes, Russians mostly.

Q Are they Caucasians?

A Yes, yes, Caucasians. Caucasian, that is European origin.

Q White?

A Yes, white.

Q Not Mongols?

A There are some. You can see more Mongols there already than you see in Central Russia.

Q I take it that leather boots and Estonian breeches and an Estonian jacket looks kind of odd in Paktsar, doesn't it?

A Very, very distinctive, yes.

Q So people in the town must have wondered who this big nabob was coming on the boat, didn't they?

A That is the point, sir, the best you are dressed, the more people have fear before you.

Q Fear of you?

A Yes.

Q They think you are an important functionary?

A Oh, yes.

Q All right, so you got off this little boat on the Paktsar river at the town of Paktsar. Tell me how you came

across this dozen of Estonians?

A I asked some people who stood on the pier, were there any Estonians. Incidentally, the daughter had written her parents that in Paktsar are more Estonians. "I am only alone in this kolhoz". I asked "Where are they? How many are there?", and I got the answer that -- I was directed where some brigade of some Estonian women; they were energetic and they had formed there some kind of -- they sew clothes, and shirts and --

MR. STANFORD: Sewing circle?

THE WITNESS: Sewing brigade. There were several of them and --

BY MR. CONNOLLY:

Q How did they get to Paktsar?

A Deported.

Q Were they in a kolhoz?

A They had formed a sewing brigade.

Q Why were they required to stay in Paktsar?

A Because that was the centrum of that region and there were officials and so on and they made work for the ladies and so on.

Q This dozen Estonians had been deported from Estonia?

A Yes.

Q In 1941?

A Yes.

Q And this was in 1947? Why hadn't they gone back?

A They didn't allow them to go back. They were put in this place without date when they can get back.

Q Were they living in an open town? I mean, this wasn't a compound?

A No, no. Like the others there. Only that the Russians, they had passports, the Russians who were not deported, but they didn't have any identification papers, they were abandoned in that place, they couldn't leave.

Q Now, you met these people before you went north?

A Yes.

Q To the kolhoz?

A Yes.

Q Did you talk to them in Paktsar about going back to Estonia with you?

A No, not this time.

Q So when you came back from the kolhoz, disappointed because you had come four thousand kilometers and the girl wouldn't come home with you, did you look up some Estonians in Paktsar?

A Again, yes.

Q Did you stay with them?

A A couple of days, yes.

Q There were twelve there?

A There were more, I think.

Q How many more?

A There were twelve to twenty.

Q Twelve to twenty?

A Yes.

Q Did you talk to them in terms of coming back to Estonia with you?

A The second day, yes, I made that suggestion, "Who wants to come and who wants to risk and come. I have money".

Q Didn't they want to know who you were?

A Oh, yes, I told them.

Q What did you tell them?

A "I am a dancer, Priit Poltsamaa".

Q You told them you were Priit Poltsamaa?

A Yes. I didn't reveal my real identity, no.

Q Did you reveal your real identity to the daughter in the kolhoz?

A No.

Q You were still Priit Poltsamaa?

A Yes.

Q Didn't they want to know how a dancer got from Estonia to this Godforsaken country?

A I told them the same story, that I had to --

Q Perform?

A Perform there.

Q In Novosibirsk?

A Yes.

Q Did you tell them that you were a guerilla fighter?

A No, for heaven's sake.

Q Now, the second day, when you said that you had plenty of money and that you would take some of them back to Estonia if some of them wanted to risk it, were there any questions asked about how you got the money?

A No.

Q They were just happy to know that somebody from their homeland had money, right?

A Yes.

Q Did you get any volunteers?

A Yes.

Q Out of the twenty that were there, how many were malee? Out of the twelve to twenty?

A There were only about two.

Q All the rest were women and children?



A Yes.

Q Of these ten to eighteen women and children, how many were women and how many were children?

A I can't answer that correct, because I don't remember. I don't know.

Q There was a small, male child and a small female child, were there not?

A Yes.

Q Were the mothers or fathers present?

A No.

Q What had happened to them?

A It was routine that when one was deported, these men were separated from women and children and the men were put into labor camps.

Q Was the mother of either child present in Paktsar?

A No, only one. No, no, I am sorry. It was not there. It was a little way down the river.

Q Down the river in which direction, north or south?

A West.

Q Not in Paktsar?

A No.

Q Well, did you hear about the boy and the girl when you were in Paktsar?

#6

A Only about the boy, yes.

Q How did you hear about the boy?

A That is -- Not until I was already on that ship.

Q Going out?

A Yes, going out.

Q Now, in Paksar you told everybody that wanted to come, to come along and that you had plenty of money?

A Yes.

Q What did you do for papers?

A Yes, that I forgot to mention. We took for that girl a false passport, I took with me.

Q You mean, on your way out?

A When I went out of Estonia I had one false passport with me.

Q I asked you about that earlier and you said you had no one but your own?

A Now, then I made a mistake. I thought you asked only for myself. I had one and another for that girl, too.

Q Where did you get the girl's passport?

A In between we had obtained others, other papers.

Q Where did you get the girl's passport?

A From that Tartu, too.

Q From whom?

A From these two women I mentioned earlier.

Q What was the name on the girl's passport?

A I don't remember that now.

Q What did you pay for that?

A Money and booze, too.

Q To the girls?

A Who gave the passport, yes, who sold it.

Q Who did they give the whiskey and the money to?

A That I don't know. I didn't meet that woman who sold her passport.

Q You don't remember the name on the passport?

A No.

Q Was there a photograph on it?

A Yes.

Q Did you take some toy soldiers with you up to Paktsar?

A No, we had the passport already.

Q Where did you get a picture of the daughter?

A The father and mother had a picture of the daughter.

Q Just passport size?

A I think we let them make full passport size (indicating).

MR. CONNOLLY: Shall we take a break?

(Whereupon a five minute recess followed.)

- - -

BY MR. CONNOLLY:

Q Now, you said that the old farmer and his wife had a picture of their daughter, and you believe you had this converted to passport size?

A We had to do that, yes.

Q And you put it on this passport which you got from these two young girls again for, as you put it?

A One girl. Oh, yes; sorry.

Q Was it one or two?

A I got one passport only for that girl.

Q You got it from your old girlhood chums from Tartu, right?

A Yes. I didn't understand that.

Q Now, how did you put the cancellation stamp on this picture?

A What is that?

MR. STANFORD: The stamp that you had put on your picture.

THE WITNESS: The same way.

BY MR. CONNOLLY:

Q Now, what did you do for travel orders?

A I didn't have any travel orders for her.

Q Now, when you left Paktsar, how many decided to

come with you?

A From Paktsar then five.

Q Five?

A Yes; and as I was on my way, then the one little girl.

Q Or the boy, which?

A It was a girl.

Q And Mr. Kirik?

A Yes.

Q He decided to come?

A Yes.

Q Does he have a wife?

A He married later Miss Raha.

Q Were they living together as man and wife?

A Yes.

Q Even though they weren't married?

A Yes.

Q They didn't have any children?

A No.

Q Mrs. Reitak, did she have a husband?

A No.

Q Did she have any children?

A No.

Q How about Linda Luik?

A Yes.

Q She did not have a husband?

A No.

Q And she decided to come?

A Yes.

Q And a small boy?

A Yes.

Q Six years old?

A Yes.

Q Who did he belong to?

A The Estonians cared for him.

Q He was just kind of running around the community?

A Yes.

Q Was he an Estonian?

A She was Estonian.

Q Was the boy an Estonian?

A Yes.

Q How do you know?

A That boy spoke Estonian, so he was an Estonian.

Q What was his name?

A I don't know.

Q This boy, he was kind of a problem here. Here you

are upriver, on the River Ob, one man and three women, and a six-year-old boy?

A Yes.

Q And you start off and you go downriver?

A Yes.

Q And then somewhere downriver you pick up a five-year-old girl?

A Yes.

Q How did that happen?

A News spread around, and when I was on that ship, then an Estonian woman when it stopped there to replenish fuel or take fuel or what we got there, and then she asked me, "For God's sake, take my little girl with you."

Q And you said yes?

A Yes.

Q You didn't say, "Boy, what am I going to do with two small children and three women and another man"?

A No, I didn't think about that.

Q Did she ask you to come along and take care of her own children?

A She didn't want to come.

Q Why?

A I don't know, that was too short a period.



Q Did you have to buy tickets for these people?

A Yes.

Q First of all, on the small boat?

A Yes.

Q To go where?

A That is Kalkaseva or Padkornaja; I don't really remember.

Q Was it one of these towns where you picked up the five-year-old girl?

A No.

Q When you bought tickets for them, where did you buy tickets to?

A Kalkaseva or Padkornaja; I don't know.

Q When you bought tickets, didn't the authorities there want to know what these Estonian deportees were doing going down-river?

A That river was still in that region only where they could move.

Q They could go down to Pashuna?

A I think after one of these two towns there began that limit.

Q So they could go down to this town without any problem?

A No; no problem.

Q When you got to one of these two towns, you wanted to go down the river further, did you not?

A Yes.

Q To Novosibirsk?

A Yes.

Q When it comes to going to Novosibirsk, that's out of the territory, isn't it?

A Yes.

Q How did you go about getting tickets for three women, two children, and a 30-year-old man and yourself?

A You could buy tickets with ease; there was no problem. Only you had to prepare yourself for checkpoints out of that restricted area.

Q Wasn't one of the checkpoints the place where you bought the tickets?

A No, it wasn't.

Q Didn't the government run the boat lines?

A The government runs all that territory there.

Q When you bought a ticket, didn't you have to give your name?

A No.

Q You didn't have to show travel orders?

A No.

Q When you borrowed the boat, did the purser or whoever took the tickets, did they want to see your passport and travel orders?

A No.

Q Where did the tickets go to?

A Here we gave money, and then they give tickets, and that was all.

Q Did they give you a piece of paper which was a ticket?

A Yes.

Q Who did you give that to?

A To all these people I had with me.

Q Yes; but didn't somebody collect the tickets?

A No.

Q You mean they sold tickets but nobody bothered collecting them?

A No.

Q What did you buy the tickets for then?

A You had to buy them.

Q Why did you have to buy them when nobody bothered to collect them?

A I don't know; that is the Russian system; I don't

know why.

Q Where was the destination that you bought the tickets for?

A Novosibirsk.

Q And where were the checkpoints?

A Around the road.

Q The ship wasn't going along the road, was it?

A Sorry. I didn't express myself correctly.

On some points they check us, these who check the papers come on board and check the papers, and that is all.

Q You mean the boat pulls over to the river bank, and some soldiers, NKVD soldiers, get aboard to check?

A Yes; it was that way.

Q How come that didn't take place up-river?

A Up-river I don't know when and why it didn't take place.

Q It didn't take place up-river; just down-river? It didn't take place down-river, too?

A No.

Q It did not take place?

A No.

Q What are we talking about, checkpoints for what?

A There were checkpoints, but we weren't checked.

Q What did you do with the passport for this girl up in the kolhoz?

A I gave that to Mrs. Reitak.

Q It didn't have Mrs. Raitak's picture on it, did it?

A A slight resemblance only.

Q Why didn't you leave it with the poor soul up in the kolhoz, the passport?

A What can she do with that passport there.

Q Maybe she would like to leave next year.

A She didn't say that.

MR. STANFORD: That seems like a question like many of these which he elicits absolutely no information which can be used in this case, and I think that we are nearing the end of the third day, and I just want to reiterate the fact that we feel that this is especially long and excessively detailed, and that in your questions of Mr. Heine, and that you are being captious in your criticism of him.

I think it's an undue burden to a man that has come from another country in this case.

MR. CONNOLLY: Thank you, Mr. Stanford, for those kind remarks.

BY MR. CONNOLLY:

Q Where was that --

MR. STANFORD: You were asking why he didn't leave the passport.

BY MR. CONNOLLY:

Q We are back to the River Ob now, and we are going down the river to Novosibirsk, and fortunately you didn't run into any checkpoints?

A We had a small accident there because we didn't have any checkers on board.

Q You mean good fortune, you don't mean an accident?

A We run onto sand. That is a very, very great and big river and has a very heavy, strong stream, and there are these sand banks up here and they disappear. And it happens often that it runs aground, the ship, and we lose about maybe a half a day of the schedule, and then to make up with that schedule, the captain didn't stop anywhere and went right through.

Q So by good fortune, you didn't have any checkpoints?

A Yes.

Q How did you know there were checkpoints here, though?

A These people told me.

Q What people?

A That I had with me.

Q They hadn't been down this river before?

A They have heard that there is.

Q What did you plan to do when you left Paktsar about getting through these checkpoints?

A That has to be clear.

Q It sure does.

A That was done with money. With bribery you can get in Russia everywhere when you have money; then you can live there like a king.

Q What was the boat fare from Paktsar to Novosibirsk?

A About \$70. I don't really remember.

Q That means apiece, doesn't it?

A Yes; apiece.

Q How about from Paktsar?

A No; that was all the trip.

Q How about from Paktsar to Novosibirsk?

A Yes.

Q You were planning if confronted by one of these checkpoints to attempt to bribe your way through; is that right?

A Yes.

Q Isn't that a little dangerous?

A Not in Russia.

Q You mean anybody will take a bribe?

A Yes, anybody.

Q So fortunately you didn't have to pay the  
piper because --

A I paid in any case, but we had that good fortune.

Q So you didn't have to pay?

A No; I paid.

MR. RASKAUSKAS: He said he paid.

BY MR. CONNOLLY:

Q Who did you pay?

A Shipmates that when checkpoint comes, then they  
hide these people without passports in their cabins or some  
place in that ship.

Q How much did you pay?

A \$1,000 for two people.

Q 1,000 rubles or \$1,000?

A 1,000 rubles.

Q For two people?

A Yes.

Q So, what did it cost you for the six? You had  
a passport. Did it cost you 3,000 rubles?

A Yes; about so much, yes. I believe it.



Q Now, when you got to Novosibirsk, you wanted to turn west now, didn't you?

A Yes.

Q Then, what did you do?

A As I mentioned earlier you couldn't get a ticket by usual ways, you had to bribe your way in there, too; and they knew about that woman speculator who dealt in tickets, too, and we got, for all, we got tickets to Tallinn.

Q Railroad tickets to Tallinn?

A Yes.

Q Via what, Moscow?

A Via Moscow, yes.

Q How much did that cost you?

A Oh, I had maybe about 6,000 left; almost all went there.

Q So, it cost you all of \$6,000?

A About, not exactly six, but almost.

Q And you paid this to get tickets on this Novosibirsk train?

A Yes.

Q The train didn't go through to Tallinn, did it?

A Yes, it did.

Q You didn't have to change trains?

A Change?

Q You didn't have to change trains?

A Where to change?

Q I am asking you, did you have to change trains,  
any trains?

A I am sorry. I thought you meant we had to change  
trains in Novosibirsk. No, we had to change trains in Moscow.

Q That was the only place?

A And then in Riga, in Latvia.

Q Now, were there very many people? You say the  
tickets were all sold out and the only way you could get them  
was from a speculator, so the train must have been crowded?

A Yes.

Q When you bought the tickets from the speculator  
of course you didn't have to show any paper, did you?

A No.

Q Were the tickets taken up on the train?

A No.

Q Nobody collected the tickets again?

A No. You have to know that tickets they give in  
Russia for people, the people keep these tickets, but they  
have some pliers with which they punch holes.

Q To cancel the tickets?

A Yes.

Q Did you have a compartment?

A No. They were open passenger cars.

Q What did you do for food?

A They took with them what they had, and when I came from Estonia I had a suitcase full of meat and --

Q What kind of meat?

A I believe that was pork.

Q It must have been a little gamy by this time, wasn't it?

A It was smoked.

Q Smoked pork?

A Yes.

Q It still must have been a little gamy, wasn't it? You are travelling in the heat of the summertime across the Russian steppes?

A That's not summertime, in September.

Q You went there in August?

A Yes, but it's not so hot, and you have to remember that that pork was heavily salted, too.

Q It was what?

A Salted.

Q So you took a suitcase full of food, mostly consisting

A Cancel as you say the ticket.

Q That's my point. Now, let's go back to the river steamer again.

Didn't you have to show your tickets to somebody on the river steamer?

A That same man who sold us, made these things to cancel the ticket, too.

Q Sold you what? The one you bribed?

A Tickets.

Q The same man that sold you the tickets cancelled them?

A Yes.

Q But he didn't cancel them till he was aboard the ship?

A Yes, on board the ship. There he sold these tickets, too, on board the ship.

Q Where did you buy the tickets, on land or on board the ship?

A On board the ship.

Q Now, on the train, however, at Novosibirsk, you bought the tickets from a speculator in the station?

A Yes.

Q And then you got aboard the train?

of salted pork?

A Yes.

Q What else?

A Some butter and bread.

Q The butter didn't last, did it?

A It was salty, too; it lasts.

Q It would be awfully salty to last a month, wouldn't it?

A I took some on the way there, on the station sides they sold some kind of food; sometimes, I took from there. I had almost half of it then because when I was there in Paktsar I didn't use my own; they gave me what I used.

Q How about the bread. You took the bread which you were using on the train from Novosibirsk back to Moscow. Was it the same bread that you had brought out from Estonia, Tamsalo?

A No, I think not.

Q You had used all that bread?

A I think so, yes.

Q Where did you get the other bread?

A We ate very sparingly on that trip, what they had taken with them.

Q On the trip in these open passenger cars, you

didn't have any money left to buy food for seven people, did you?

A Not much, but something. There, before these people left, they sold their belongings, what they had there, their clothing.

Q And picked up some more money?

A Yes.

Q Now, were the tickets picked up on the train or were they stamped or cancelled?

A They were stamped, yes.

Q Who did that?

A The conductor or somebody.

Q Did any police get aboard the train to look for papers?

A Not for papers, the police were there for our protection, for the protection of all passengers.

Q Why?

A Because the Russian countryside was infested with criminals who attacked even the trains and robbed the passengers, and so forth. When the police and passengers didn't cooperate very good, then whole trains were robbed and killings and whatnot.

Usually the passengers rode so that they locked the

doors, all the doors and windows, and at stations where the machine took water or where there were new passengers, there they had battles with these criminals who wanted to attack these passengers and steal belongings and what they had.

Q You mean to tell me from Novosibirsk to Moscow nobody once asked to see your passport?

A No.

Q And nobody once asked to see your travel orders?

A Nobody.

Q And you never went through any checkpoints?

A No.

Q And you when you got to Moscow --

A Yes.

Q -- did you have to change stations?

A Yes.

Q Did you spend any time in Moscow?

A Maybe a couple of hours.

Q And you had to go to another railroad station?

A Yes.

Q And get aboard another train?

A Yes.

Q And this train was now headed northwest out of Moscow to go to the Baltic States?

A Yes.

Q Did it go to Vilna?

A I didn't hear you, please.

Q Did it go to Vilna?

A No, Niga.

Q Just straight to Riga?

A Yes.

Q And then north to --

A Volga, Tartu and where I lived.

Q Where was that?

A Tamsalo, Volga, this district of Jarrvanaa.

Q When you changed stations in Moscow and you boarded the train from Riga --

A Yes.

Q -- did anybody ask to see your identification papers?

A In Moscow one thing happened. Originally we had the intention to go over to Narva, over Leningrad and Narva, but while there at this time already I knew that masses of Russian criminals and hungry masses of Russians are streaming into Estonia and mostly over Leningrad and Narva, and to stem that tide of robbers and murderers there the authorities had established in this region more checkpoints than any other



place leading to the Baltic States, and then I thought that maybe the best way we don't touch that region, we go around over via Riga.

Q Did you change tickets in Moscow?

A No. You had only to transcribe. You had to go to that station, and then re-route.

Q Did the tickets have to be rewritten?

A No. On that same ticket I believe they wrote, "Tallinn over Riga," not, "Tallin over Leningrad."

Q And you left Moscow for Riga, and you are still eating out of your supply of food?

A What we had with us, yes.

How much was left of mine, I don't know. I don't remember any more.

Q Did anybody aboard the train ask to see your papers?

A No.

Q Nobody passed any checkpoints?

A No.

Q You got to Riga and did you have to change trains in Riga?

A Yes. I believe that was from that same station, but maybe a couple of hours later we went on to Tallinn.

Q Again no checkpoints?

A No.

Q No checking of papers?

A No.

Q Just cancellation of tickets, or just stamping or punching of tickets?

A Yes.

Q So, from Paktsar all the way to Tallinn, the six people that you travelled with never once passed a checkpoint?

A No; only I was once checked in Moscow.

Q Weren't these other people with you?

A Pardon?

Q Weren't these other people with you?

A They were with me, two or three were in that railway station; the others walked outside that station.

Q Tell me about how you were checked in Moscow?

A Some police officials came in and began to checking the papers of these people who were in that station.

Q Everybody in the station?

A I believe so, yes. I got out; I didn't see that end, whether they checked everybody or not; and two or three, I don't remember now how many of my people were in that station, and --

Q Weren't you all together?

A No. Most of my people walked outside in the fresh air.

Q How did you get from one station to the other?

A By foot.

Q How far was it?

A Maybe a mile or two.

Q What were the names of the two railroad stations in Moscow?

A I don't know that station from where we got out, but I think I remember that station from where we went on to Riga, that was Karahksnoja.

Q Now, did you know where to go in changing stations?

A I believe we asked some railway men or someone like that.

Q When you got to Estonia, where did you get off the train?

A I went off the train, I think -- yes, it was in Tamsalo.

Q Tamsalo?

A Yes.

Q How about the others?

A They, too; yes.

Q Where did they go then?

A I had friends, and we overnighted there.

Q You overnighted in Tamsalo?

A Yes.

Q With friends?

A Yes.

Q Where did these people that you have now travelled 4,000 kilometers with, where did they then go?

A They stayed there maybe a week or so, and then we could obtain them some papers.

Q What kind of papers?

A Some identification papers.

Q What kind of identification papers?

A I believe it was the time in '47 when Estonian population was given first, in the beginning only the population of towns got passports, but now they began to give passports to the people who lived in the countryside, and through these connections with these central committee friends we could obtain the papers for these people.

Q How big a town is Tamsalo?

A About 500 or 600.

Q The fact that six Estonians from the depths of Siberia came to town must have caused a big uproar, didn't it?

A We didn't tell them from where we came.

Q How far from Tamsalo was the area where your guerrilla band was based from June to August of '47?

A About 40 or 50 kilometers.

Q Did these people stay in the Tamsalo area?

A About a week, yes.

Q And they got papers at the end of the week?

A Yes.

Q And then, where did they go?

A I warned them not to go near their birthplaces where they have been earlier before they were deported, but go somewhere else and then seek -- maybe they have acquaintances or relatives somewhere, and go there and stay out of that place where they were known too well that they are deported.

Q Did they take your advice?

A Not all of them, I am sorry to say that.

Q Were any of them captured?

A After a couple of years, yes; most of them, maybe.

Q Do you know that?

A No.

Q What did you do with the six-year-old boy when you got to Tamsalo?

A Linda Luik cared already in Siberia for him, and

took him with her, too.

Q Where did she go?

A To Viljandi.

Q Viljandi?

A Yes.

Q Was she captured?

A No; she is still there.

Q How about the five-year-old girl?

A The mother had told the others where the relatives are, and she was taken to that place, too.

Q Kirik, now he married Mrs. Raha?

A Yes.

Q Where did they go?

A They went to Poltsamaa District in Poltsamaa.

That is on the map there.

Q The District of Poltsamaa and Poltsamaa is the same thing?

A Oh, yes.

Q When you got back, did you find out what happened to Priit Poltsamaa?

A No, I didn't know at this time.

Q Was he still around?

A Yes, he was around.

Q And you still kept his passport?

A Yes.

Q How about Mrs. Reitak?

A She went to, I believe, to the north of Estonia some place. She was a registered nurse, and found work in some hospital.

Q Was she captured?

A No.

Q Were the Kirik's captured?

A Yes.

Q Were they returned to Siberia?

A Yes.

Q How do you know that?

A One relative who is here in Toronto told me.

Q Who is the relative?

A Her brother.

Q What is his name?

A Mr. Kirik.

Q What is his full name?

A I don't remember right now.

Q Do you have it at home?

A Pardon?

Q Do you have the name at home?

A The address of whom?

A Do you have Mr. Kirik in Toronto, his full name and address at home?

A Yes.

Q When you read the transcript, would you insert it at this point?



25X

A Yes.

Q When you got back, did you rejoin the Brothers of the Forest?

A Yes.

Q And you went to live in the forest again?

A Yes.

Q Now, how many were still alive?

A They had a couple of casualties.

Q So, how many were left out of the original nine other than yourself, the original ten?

A Then, there were eight only.

Q One person was killed?

A Two, I think.

Q That would be seven, other than yourself?

A Outside of myself, yes.

Q Who were the two that were killed?

A I don't recollect the names, but one was called --



how is it? -- Lead Nose; and I don't recollect the other one.

Q How did you decide in your own mind which one was killed if you don't know what their names were?

A I told you he called himself only Lead Nose.

Q How do you spell it?

A Lead Nose?

Q Lead Nose?

A Yes.

Q He was missing?

A Yes.

Q Presumed dead?

A Yes.

Q Somebody else?

A And another one, too; I don't recollect his name.

Q How do you distinguish one from another?

A One was Lead Nose, and another one was another one.

Q He was missing, too?

A Yes.

Q Presumed dead?

A Yes.

Q Who was the leader at this time?

A Endel Parts.

Q He was still the leader?

A Yes.

Q What time was this that you got back from this Siberian jaunt?

A The end of September.

Q And you had to prepare for winter. I take it winter comes early in Estonia?

A In September or the beginning of October it begins there to snow already.

Q In October?

A Yes.

Q So, that pretty much finished your activities for the year 1947, I take it?

A Very much, yes.

Q And you lived in your huts in the woods during the winter?

A Yes.

Q And did not engage in anti-Soviet activity?

A I can't for sure say that. I was captured in '48, in February.

Q Doing what?

A I tried to help one of my family friends, and --

Q Down in Tartu?

A No; in Tallinn.

Q What kind of help did you try to give him?

A That was actually -- he was working in a bus terminal or something, a dispatcher, and accidentally he had a traffic accident and --

Q How could a dispatcher have a traffic accident?

A He used a car, and then he had an accident.

Q He had a traffic accident. He wasn't acting as a dispatcher then, was he?

A He used a car for his own purpose, a truck I think he told me, and had killed one Russian soldier accidentally, and the punishment for a traffic accident for a deadly accident is very severe, a couple of years you get in prison for that. And they had taken his passport away, and wanted to take him to police headquarters, but he knew what was waiting ahead, and he escaped from the policeman, and now he was without a passport.

But, as I mentioned earlier in Russia with money you can buy everything. He had probably friends in Viljandi, and he had arranged so that he can buy for money a new passport, but now he was without a passport. And then he asked me to accompany him to Viljandi to be protected maybe when we are coming to checkpoints, and when they ask I can save him from

that arrest for being arrested again.

And I agreed, and I went with him to Viljandi and there they arranged that settlement with that passport. He paid, I believe, under the counter 4,000 rubles to get a new passport. But first he had to, these couple of officials through whom he had expected to get that passport, had told him that he has to go through some fictitious interrogation on the ground that the interrogation they can issue him a new passport, but at the last minute that guy became afraid and didn't want to go through with that thing, and then I volunteered, "Why not? You have paid." You know, "All the same who is going, you or I? I go myself; you stay here. Let's go through with it, and you will get a new passport."

And I went in to that headquarters there, and first thought, "Shall I put aside my sidearm?" When I rode on trains, also among people, that Luger I always had. I was at this time a very chesty person, and I kept my pistol here at my belly under these underclothes. And I decided I go with my Luger inside that headquarters and that saved me this time.

I went there. And to clear the record, before that, one day before that we had drinks with at least two officials who promised to supply that passport for my family

friend, and I was met when I went there alone instead of with my family friend, I was received by one of these officials, and we sat down at the table there, and he began to ask me questions and so on, and who I am and I give that name of that guy there and when we were maybe halfway through there, the commander of that headquarters sprung in and yelled at me, "What are you playing here? What is going on?" and as it came out afterwards, these guys who had got 4,000 rubles by dividing that money they had, one was not satisfied with his lot, and he has even told that story to the chief, betrayed all that thing, and I was arrested on the spot. And that interrogation began once again, now for real.

And as I once earlier mentioned, I used these answers once more sometime ago, my mother was a washwoman, and my father was a coal carrier, but now I used that name of Priit Poltsamaa because I had these papers with me, and they took these papers away and checked them.

And then I was put in a cell in a prison, not in that building. There was a cell as big as that (indicating), and there was one prisoner before me in that cell and one guard sat there exactly about like here (indicating).

Q When somebody reads this, they won't know what you are pointing to.

There was a guard sitting nearby in the cell?

A Yes; and I sat on opposite side of the guard and that prisoner. It was a bit longer than that wall (indicating). I sat here, and another prisoner beside the door.

And then I realized that now is, how can I express that the best way? Now, is it most decisive moment of my life has come now. Then I was sure if I stayed there, in a couple of days they can find out I am not Priit Poltsamaa, and they can for sure find out who I really am; and I have to do all what I can to get out of that confinement there.

I asked the guard to, "Can I smoke?" He allowed me to put a cigaret in my mouth, and I pretended as if to, I am searching for matches, and before I was put into that cell they searched me, but only this way (indicating).

Q Down the sides of your body, not your stomach?

A Yes, between the legs, but they didn't happen to touch my Luger.

To continue the story, as I presumably looked for the matches, I drew the pistol of mine and I sprang up momentarily, and the guard sprang up, and I pointed that pistol on that guard and put my finger to my lips, "Be quiet," and that froze that guard.

Q It did what?

A Froze him, and the door was not locked; I moved slowly for the door, all the time pointing to the guard my pistol, and pulled open that door, and there was a sergeant of the guards who stood behind the door, and that man was so stricken with terror as I pointed my pistol right away to him, he was so stricken with terror that he could only yell, "Pistolet," in a very high voice and run up the stairs on the second floor. I didn't fire after him because my only wish was to get out that place as fast as possible.

At the guards' room there were two doors, side by side, and I tried the first one, and that didn't open; and from the second floor already began the men to run down, soldiers, and I had only one thought, all the bullets I have for them and the last for me, and I fired a couple of shots up the stairways, and probably I hit somebody there because I heard yells and cries, and by this time I also tried that second door what was there, and it opened and I saw the street there, and with one leap I was three or four steps down, that led to the street. In one leap I was there and running as I haven't run all my life.

Q Where did you go?

A I was in Viljandi, and my home base was about 80 kilometers or more away. The first thing struck my mind was

that they raise for sure right away a general alarm, and the first thing to do is to get out of that town as fast as I can. And I didn't know that place very well, but I was lucky enough to reach -- I ran a couple of streets, but then around one corner I tried to make myself respectable like a citizen walking slowly and calmly, and I was lucky enough to have that street under my feet which led out of town, and then again I was on the highway.

First I followed the highway; it was February, and it was snow-covered, but the highway was kept passable. A lot of cars came toward me and behind me, and every time I leaped into the field and laid down, and then I heard a whistle of a train, not what is normal length but in Estonia from Tallinn to Viljandi and Tilvago, is half the length of that normal train, and I knew there are railway tracks that lead directly nearby my homeplace, and I went through the snow to the railway tracks and began to walk. And, I made as I afterwards figured 80 kilometers in 14 hours, until I reached Turi where I met my first acquaintances and where I could rest, and then the next day I went on from there to the point where my friends were, and that friend of mine was arrested after that general alarm; he was arrested in that town, and he went to Siberia.



Q How about Priit Poltsamaa?

A He was arrested, too.

Q Where did he go?

A He was sent, as I heard in 1950 from my friend I met in Leningrad in prison, that he was sent to the Arctic Circle.

Q In Siberia?

A Yes; but north, by the north, see, around the Pole, the Arctic Circle, the Arctic Ocean.

MR. CONNOLLY: I will pick up there tomorrow morning.

(Whereupon, at six o'clock, p. m., the hearing was recessed until Wednesday, March 3rd, 1965, at ten o'clock, a. m.).

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

-----X  
: EERIK HEINE,  
: :  
: Plaintiff,  
: :  
: vs. : Civil Action No. 15952  
: :  
: JURI RAUS,  
: :  
: Defendant.  
: :  
-----X

Washington, D. C.

Wednesday, March 3, 1965.

Deposition of:

EERIK HEINE,

the plaintiff, (resumed) called for examination by counsel  
for the defendant, pursuant to recess and agreement of the  
parties, in the offices of Hogan & Hartson, Esquires, 800  
Colorado Building, Northwest, Washington, D. C., 20005,  
beginning at ten o'clock, a. m., before George M. Poe, Jr.,  
a Notary Public in and for the District of Columbia, when

Stewart & Poe, Inc.

BOND BUILDING, 1404 NEW YORK AVENUE, N. W.  
WASHINGTON, D. C. 20005

were present on behalf of the respective parties:

For the Plaintiff:

ERNEST C. RASKAUSKAS, ESQ.

and

ROBERT J. STANFORD, ESQ. (Afternoon)

For the Defendant:

HOGAN & HARTSON, ESQS.

BY: PAUL R. CONNOLLY, ESQ.

and

E. BARRETT PRETTYMAN, JR., ESQ.

- - -

I N D E X

- - - - -

EXAMINATION BY

WITNESS:

MR. CONNOLLY:

Eerik Heine

590

- - -

E X H I B I T S

- - - - -

FOR IDENTIFICATION

Defendant's Exhibit No. 7

591

Do.

No. 8

591

- - -

Thereupon

EERIK HEINE,

the plaintiff, having been previously sworn by the Notary Public, further testified as follows:

EXAMINATION BY COUNSEL FOR THE DEFENDANT (Resumed)

BY MR. CONNOLLY:

Q During the Tuesday session Mr. Prettyman asked you whether you would bring the Russian papers mentioned in the Monday session. Do you have them with you?

A Yes, I have.

Q Will you produce them, please?

MR. RASKAUSKAS: While Mr. Heine is producing these records, I would like to state for the record that is our fourth day of deposition and we are interested in concluding it today if at all possible and also having an evening session tonight, if necessary. Mr. Heine has information that his wife has been contacted yesterday by three unidentified people who attempted to force their way into her home. She notified the Mounted Police and he accordingly is very anxious to go home just as soon as possible.

BY MR. CONNOLLY:

Q These are articles (indicating) published in the Estonian language within a newspaper published in Russia?

A Yes.

MR. CONNOLLY: I would like to have these photocopied. Would you like to have a copy, Mr. Raskauskas?

MR. RASKAUSKAS: Yes.

MR. CONNOLLY: I will mark this D. X. 7, Defendant's Exhibit Number 7 (indicating).

(Whereupon the document above referred to by counsel was marked Defendant's Exhibit No. 7 for Identification and was retained by the Plaintiff.)

MR. CONNOLLY: I will mark this D. X. 8, Defendants's Exhibit Number 8 (indicating).

(Whereupon the document above referred to by counsel was marked Defendant's Exhibit No. 8 for Identification and was retained by the Plaintiff.)

MR. CONNOLLY: Off the record.

(Whereupon a brief off the record discussion followed.)

BY MR. CONNOLLY:

Q Mr. Heine, at the conclusion of the Tuesday session you were telling us in the form of a narrative description about your arrest in 1948?

A Yes.

Q This was in February, as I recall?

A February, yes.

Q Now, who was the family friend from Tallinn for whom you were attempting to get a passport?

A Mr. Ilmar Grünbaum, I think.

Q Can there be any doubt about that?

A No, I don't believe.

Q And whose passports did you get for these six people that you brought back from Paktsar?

A I don't know that exactly because the same one settled that passport matter with our friends there. I don't remember the names or what names.

Q Who settled what passport matters with whose friends?

A I brought back six people from there.

Q Right.

A And for five there was need for passports.

Q Did the children need passports?

A No.

Q And four people did?

A Five.

Q I don't think so.

A Four, right.

Q Four needed passports?

A Yes.

Q Where did they get them?

A As I told you earlier, there were at that time people who lived at the countryside, they were given passports, and we had friends and contacts in the Tansalu, the Committee people, and they arranged that.

Q They arranged so these four people got passports?

A Yes.

Q But your friend in Tallinn didn't have one?

A He had lost that. Not lost, but he was taken --

Q It was taken from him as a result of an automobile accident?

A Yes.

Q Do I understand that the man that you had bribed --

A Two men, yes.

Q They are the ones who changed their minds?

A One of them.

Q Had changed his mind?

A Yes.

Q And began to interrogate you with a great deal of seriousness?

A No, it was not at all so. I went there and that one man who presumably had agreed to go on with that deal,

began to make fictitious --

Q Interrogation?

A -- interrogation, but presumably another man had changed his mind and had betrayed it to the commander of that post, and after a while, maybe twenty minutes or half an hour, that commander came in and arrested me on the spot.

Q Were you given an interrogation by the commander?

A After that another official began interrogation again, I was arrested on the spot and then a new interrogation.

Q By whom?

A That was an official there.

Q Was he wearing a uniform?

A Oh, yes.

Q But a person that you had not heretofore had any dealings with?

A No.

Q Did he ask your name?

A They took my passport. I told them "I am Priit Poltsamaa".

Q You showed them your passport?

A Yes.

Q Did they examine the passport carefully?



A Yes.

Q Did they charge you with having it as forgery?

A No.

Q They assumed that you were Priit Poltsamaa?

A Yes.

Q Did they fingerprint you?

A No.

Q What other questions did they ask?

A Name and -- first name and the date of birth and where I lived and preliminaries.

Q Where did you tell them you lived?

A What was on the passport.

Q What was that?

A I don't remember that now.

Q What address was it supposed to be?

A In Tartu.

Q Where Priit Poltsamaa lived?

A Yes, that was Priit Poltsamaa's passport.

Q Now, did they ask you about your history at all?

A As I told you earlier, I told them the same, what I had told in the prison camp in Tallinn, that my mother was a washwoman and my father was a coal carrier and that was all the preliminary. After that they took me down to that

prison cell.

Q Into the cell?

A Yes.

Q What happened to the other Estonian prisoner in the cell?

A I don't know that.

Q He didn't come with you?

A No.

Q He didn't attempt to escape?

A No.

Q You didn't go through any detailed interrogation then?

A No.

Q Nor did they fingerprint you?

A No. To make the record clear, please --

Q Yes.

A -- I was fingerprinted when I was arrested in 1940.

Q I understand.

A Oh, yes.

Q And so far that was the only time you had been fingerprinted?

A Yes.

Q Did they tell you what you were charged with?

A No.

Q When they put you in the cell?

A No.

Q Do you know whether or not they had ordered the arrest of your friend?

A I didn't know that.

Q Your friend did not go to the Kommandatura with you?

A No.

Q But apparently they searched you, as you said?

A Yes.

Q What kind of clothing were you wearing?

A I had overcoat, coat, breeches and boots.

Q Did they make you take off your overcoat?

A No.

Q Did they frisk you?

A Yes (indicating), outside the body on the clothes.

Q You said that at the time you were quite chesty?

A Oh, yes.

Q You had a large chest?

A Yes.

Q And a very small stomach?

A Yes.

Q You were able to keep a Luger in your belt under your chest against your stomach without them finding it during the time they frisked you?

A They didn't happen to touch that place (indicating), I presume.

Q But a Luger is small revolver, isn't it?

A I would like to demonstrate how it looks when I had that.

Q Please give me the measurements of a Luger?

A If you have here a Luger I would gladly show you that it is --

Q I don't have a pistol here in the office. I wouldn't know where to get one. Will you give me the measurements?

A I don't know exactly how are these measurements, how these measurements were.

Q Would you say the barrel is about five or six inches?

A I presume, yes.

Q And from the butt to the top of the barrel is about another four inches?

A Yes, I think so.

Q And its thickness is about an inch and a half, two

inches?

A It may be, yes.

Q At any rate, you were put in a cell and you still had this Luger with you?

A Yes.

Q So you were able to draw your Luger and force one guard against the wall and you went outside and confronted another who was thunderstruck when he saw you with a gun and he ran out, up the steps and you did not shoot him, you were anxious to get out of there, and you went into the guard room next door --

A Correction, please.

Q Yes?

A That guardroom was next to that cell. I didn't go farther.

Q In the next room to you?

A Yes, next to the cell.

Q All right, when I said "next door" I didn't mean another building. The next room. And you were confronted with two doors, one you tried and it did/<sup>not</sup>give way. You heard footsteps and you fired at the steps into the faces of oncoming soldiers and at the last minute, the second door yielded and you went out into the street and ran?

A Yes.

Q Then you caught a small train back to your guerilla camp?

A I walked.

Q You walked along the tracks of the small train?

A Yes.

Q You didn't board the train at all?

A No.

Q Eventually you walked back to your guerilla camp?

A Yes.

Q And you told me, I believe, that you heard that Priit Poltsamaa had been arrested?

A Yes.

Q And sent to Siberia?

A Yes.

Q Is that the last you heard of him?

A Yes.

Q And your friend from Tallinn that you were helping was he arrested to your knowledge?

A Yes.

Q Was he sent to Siberia also?

A Yes.

Q Have you heard from him since?

A I have heard that he has had his punishment completed and is back.

Q Where?

A In Estonia.

Q In Estonia?

A Yes.

Q From whom have you heard that?

A I heard that when I was there in prison camp.

Q In Soviet prison camp?

A Yes, Soviet prison camp.

#2

MR. CONNOLLY: Off the record.

(Whereupon a brief recess was taken after which Mr. Connolly left the hearing room.)

BY MR. PRETTYMAN:

Q Mr. Heine, you were now walking along after escaping. Where did you go from there?

A To a small town called Türi.

Q (Spelling) T-u-r-i?

A (Spelling) T-ü-r-i.

Q How far was that from where you were?

A That is about eighty kilometers.

Q You walked it?

A Yes.

Q What did you do when you got there?

A I rested until -- when I reached that place about noon. I rested until it was dark again and then I walked further and reached my group then.

Q Where was Türi with relation to Viljandi?

A North.

Q Were you headed for any particular place or were you just walking generally to get away?

A I had to walk away to the nearest place where I could have rest and accomodation and that was Türi.

Q Yes, but I mean, were you now walking to a particular destination?

A Yes.

Q Did you have a destination in mind?

A Yes.

Q And what was that destination?

A Türi.

Q Why did you want to get to Türi?

A Because there was one of my acquaintances living there.

Q Who was he?

A That was a relative of that Mr. Grünbaum and actually his aunt, I think and I don't remember her name now.



Q It was a woman?

A It was a woman, yes.

Q You don't remember her name?

A No.

Q What relation was she to Mr. Grünbaum?

A Some aunt or something.

Q Where had you met her?

A When we came with Mr. Grünbaum to Viljandi, we stopped there.

Q You had stopped at this home previously?

A Yes.

Q And you stopped there after resting?

A Yes.

Q Was she there?

A Yes.

Q Then, what did you do?

A I went on in the evening toward Tamsalu.

Q Tamsalu?

A Yes.

Q You walked the roadway?

A Yes.

Q Were you stopped anywhere between Viljandi and Tamsalu?

A No.

Q You did not have a passport at this time?

A No.

Q Did you go to Tamsalu alone?

A Yes, alone.

Q What happened when you got there?

A Then I joined my group again looking for a passport.

Q How many in the group were left by now? Of the original ten?

A It was eight now, I think. Two were lost when I was in Siberia to bring back these people, yes, eight I think.

Q That would be seven, wouldn't it, because the ten included you?

A And two were lost, that's right. With me there were ten.

Q That's right, and now there were eight?

A Yes.

Q Including yourself?

A Including me.

Q All right, what did you do? Your group was in Tamsalu, how did you find them?

A It wasn't in Tamsalu.

Q I think we could proceed a little faster if you

could move right ahead and tell us now just what you were doing. You understand what we are looking for, Mr. Heine. We are looking for the story and some detail of what you did. Now, will you tell us how you found your group and what you then proceeded to do?

A When I was in Siberia, my group was attacked and they had to abandon their bunkers in the woods and we had to move into a new place and that was near Tamsalu.

Q How near Tamsalu?

A About fifteen or so kilometers.

Q It was during this attack that two members were lost?

A Yes.

Q They were killed?

A Yes.

Q All right, and you found them near Tamsalu. How did you find them?

A I knew that place.

Q How did you find out what had happened to them?

A We are speaking about '48 now, sir.

Q All right, fine, and you found your group. Now, what did you do with them?

A I began looking for a new passport.

Q Did you find one?

A About these passports given to people of the countryside, that lasted only a couple of months and by this time I lost mine and there was no issuing -- They had finished that campaign and no issuing of passports this way.

Now, I thought of stealing one or buying one, but -

Q Did you have any money at this time?

A Oh, yes, we had money all the time.

Q Because you had rejoined your group and they had money?

A Yes, they had money, too. In about a couple of weeks I obtained a passport.

Q Where did you get it?

A An acquaintance, a farmer. We can't say she was a wife of that man, but they lived together. She had a visitor from Tallinn and she stole that passport from that man, so that man didn't know, notice that. And I took that passport and made it the usual way for my own purpose with my picture and the stamps and so on.

Q That picture isn't quite clear to me.

There were a man and woman living together on a farm?

A Yes.

Q They weren't married?

A No.

Q What was his name?

A I can't tell.

Q Why not?

A Because when I reveal that, then they are living there and when I do that they -- their liberty and their life is in danger.

Q And the same applied to her?

A Yes.

Q That you won't give her name?

A No.

Q They are still in Estonia?

A Yes.

Q They are still alive?

A Yes.

Q All right, now, she stole a passport?

A Yes.

Q From some one else?

A Yes, from somebody else, yes.

Q From the pocket of a visitor?

A Yes.

Q And whose name was on that passport?

A That was Mr. Helenurm.

Q What was his first name?

A I believe it was Helmut.

Q How long did you retain this passport?

A Until I was arrested in 1950.

Q There certainly is no doubt about what name was on the passport, then?

A Even the Russians can tell about that in their article there (indicating).

Q I am not asking about the Russians. I am asking you, Mr. Heine, there is no doubt about the name that was on the passport that you carried during this period?

A No, I think not.

Q You are definite that this was the name on the passport that you carried?

A Yes.

Q All right, was there a description on the passport of the man's physical features?

A That I can't quite clearly remember what descriptions there were.

Q There was some description?

A Male and eyes and --

Q Height and weight?

A No, I don't think so.

Q No height and no weight?

A No. Nationality.

Q And his address?

A Yes.

Q What was his address?

A In Tallinn, I believe.

Q Well, this was now your address, I take?

A Yes.

Q What was that?

A I don't remember any more that.

Q Do you remember the street in Tallinn?

A Only the town.

Q Did it have his picture?

A Yes.

Q Did it look like you?

A No.

Q So what did you do?

A I put my own picture on that passport.

Q And you got some more toy soldiers?

A Yes, we had enough of that stuff with us.

Q Tell us about that?

A Again how to make a stamp?

Q You made it the same way as you did before?

A Yes.

Q You melted down lead?

A Yes.

Q And then you took a long needle?

A Yes.

Q And you --

A Carved out these letters, what I needed for the corner and that circle, half circle or one tenth of a circle -- how it was.

Q How much of a circle was needed here?

A I don't really remember exactly now how much.

Q And then you pressed the two together?

A Yes.

Q Where did you get the picture of yourself?

A When we had our first passports, then in Tamsalu there was a photograph, an old man, he made these passport pictures of that size, the right size.

Q Did he know what you wanted it for?

A Oh, yes.

Q Who was this?

A I don't remember his name. He lives in Tamsalu. Johan was his first name. We called him "Old Johan".



Q All right, so you now had a passport?

A Yes.

Q You were now a member of your group again?

A Yes.

Q It had no new members?

A No.

Q Just the eight remaining from the original ten?

A Yes.

Q What did you do then? This was still in February of '48?

A Still February of '48.

Q What did you do then?

A I went to live with my group again and then in May, I believe, we lost our leader.

Q Who was your leader?

A He is dead. I can reveal his name, not being afraid of harming anybody. It was Endel Parts.

Q Spell that?

A (Spelling) E-n-d-e-l P-a-r-t-s.

Q Mr. Heine, the money which your group had, was that still the leftover from the coins which you had received from that lady?

A No, when we wanted money, then we sold these coins,

because we had plenty of them.

Q Did you take part in that stealing?

A Stealing?

Q I thought you said you stole coins? When you needed money?

A No, sold, sold coins. We sold them.

Q You sold them?

A Yes.

Q I am sorry. You sold the coins?

A Yes.

Q Are these coins you are talking about this original group of coins that was given you by the lady some years before?

A Yes.

Q You had no other source of income?

A No.

Q You didn't take part in thefts?

A It began to be a little bit too tough, because the more the time went on, the more efficient they got in pursuing us and destroying us and we didn't dare to. When we didn't especially need something, then we left it stay this way. We began to try to save more our lives and to attack.

Q Were the Russians in Tamsalu during this period?

A No, only police.

Q N. K. V. D. agents?

A The Militsia.

Q Pardon me?

A The Militsia, the regular police.

Q Russian police?

A Yes, the Russian police, but soldiers and N. K. V.

D. they were in Paide, the nearest place.

Q How far away was that?

A That was about forty or fifty kilometers from there, I believe.

Q Were there any soldiers in Tamsalu?

A No.

Q But there were police?

A Yes.

Q How many times were you stopped and had to identify yourself after you made up this passport?

#3

A Maybe a couple of times.

Q A couple of times?

A Maybe a couple of times, yes.

Q Do you remember when?

A (No reply from the witness.)

(Whereupon a brief off the record discussion followed.)

MR. PRETTYMAN: Did he answer that question?

THE REPORTER: No.

THE WITNESS: I believe a couple of times on the train, yes.

BY MR. PRETTYMAN:

Q What were you doing on the train?

A I went regularly sometimes to Tallinn when I had the possibility and --

Q To Tartu?

A No, I didn't go any more to Tartu after that Viljandi affair.

Q Were you stopped in Tallinn?

A Yes.

Q And this was now your home town according to your passport?

A Yes.

Q You had to show your passport?

A Yes.

Q Did they ask you any questions?

A On the train, the passport.

Q I thought you said they stopped you once in Tallinn?

A On the way to Tallinn.

Q On the way to Tallinn?

A Yes.

Q You just showed them your passport?

A Yes.

Q Did they ask any questions?

A No.

Q When was the next time after February of 1948 that you had regular employment, that you actually had a job where you had an income?

A I never did that in Soviet Russia.

Q Now, you were questioned by the Russians again when?

A In 1950.

Q Between February of 1948 and when you were captured by the Russians in 1950 you never had employment again?

A No.

Q You never had any source of income? Other than as a member of this group?

A Yes.

Q All right, I want you to fill in that period for us as best you can. How was your daily routine, tell us what raids you engaged in during this period and how you lived?

A As I told you before, in May we lost our leader and then I took over and in June --

Q You say you took over. You became the leader of the group?

A Yes.

Q What were they calling you at this time?

A Eerik.

Q Not Helmut?

A That was only on the passport. In June I killed a local security officer of N. K. V. D.

Q How did you do that?

A I waited for him to come out into one village and met him by the highway and shot him down.

Q And what?

A Shot him down.

Q Do you know what his name was?

A Yes.

Q Will you give that?

A He was Piibeleht, (spelling) P-i-i-b-e-l-e-h-t.

Q Did you know him?

A I had heard about him, yes.

Q What was his position?

A He was the representative of Russian Security

Service in this region.

Q And you alone killed him?

A Yes.

Q Go ahead?

A It was in '48 in June or July -- I don't really remember which month it was -- I lost one man.

Q Who was that?

A Iilo Puusaag.

Q He was killed?

A Yes.

Q How was he killed?

A We were surrounded by the N. K. V. D. forces.

Q How many?

A After the battle was over, the local people thought about twenty or thirty killed, soldiers, Russians had brought out of that place of battle.

Q In other words, your group had killed twenty or thirty of these Russians in the battle?

A Can I describe how it actually happened?

Q Oh, absolutely. You may tell us where this happened, too?

A Near Tamsalu, about fifteen kilometers. We had our bunkers. Unsuspecting -- that was surprise for us --

that was I think in the morning we were attacked. We were only three men in these bunkers. Others were in nearby villages and the battle lasted about two hours. Iilo Puusaag was severely wounded. He fought on.

Q He was one of the men in the bunker with you, one of the three?

A Yes. And a guy and he was later killed. I can give you his name. Mr. Vainomaa.

Q He was the other man in the bunker with you?

A Yes.

MR. PRETTYMAN: Excuse me.

(Whereupon counsel answered a telephone call.)

BY MR. PRETTYMAN:

Q You referred to this second man that you were describing in this battle?

A He got slightly wounded and we ran, we began to run out --

Q I am not sure I have the picture at this point, Mr. Heine. Were just the three of you in battle with all these soldiers?

A Yes.

Q And the rest of your group was operating some place else?



A Yes.

Q And this battle lasted for two or three hours?

A Two hours, I believe.

Q And then one of your men was killed and the other one wounded?

A Not right away. He was wounded severely and Vainomae was --

Q Both men were wounded?

A One severely and one slightly.

Q All right, but you fought on?

A Yes.

Q And then, what happened?

A Then we were captured.

Q You were captured?

A Yes.

Q All three of you?

A Yes.

Q All right?

A To make it clear, the N. K. V. D., that is their methods when they capture a guerilla group, they try to capture and destroy and they try to keep alive some of them to get the information and where they have been and what they have done and so on and that must have been the case,

because we were overpowered but not shot right away, and they began to question us.

Q How many were there?

A As I could estimate, there were forty or more.

Q And these were not police, they were soldiers?

A Yes, they were soldiers, and they began to beat us and ask questions and they put fire on these bunkers and then, Mr. Puusaag, they saw that he was severely wounded and they threw him into the fire alive and --

Q He burned up, is that the way he was killed?

A Yes.

Q All right?

A But during the beating our men who were away and had heard the battle noise and suspected that we had trouble they contacted nearby another group and they came to rescue us.

Q I assume, of course, the first thing the Russians did when they captured you was to find out your identification and find out who you were?

A No, they began to beat us right away.

Q They didn't look for your identification?

A No. That was enough. I had arms in my hands and that was enough for them to be criminal.

Q You were an enemy of the state at that point?

A Yes.

Q A traitor?

A Yes.

Q Mr. Heine, how long was it between the time you were captured and the time that your guerilla forces came to rescue you?

A It must have been maybe fifteen minutes.

Q Did you receive any permanent injuries during this beating?

A No.

Q Were they all beating on you?

A No, they stood around us there and asked questions and then beat again --

Q What did they beat you with? Their rifle butts?

A With hands and with rifle butts, yes.

Q About the head or the body?

A About the head and body, yes.

Q And were you bleeding?

A Yes.

Q Where were you bleeding?

A Nose and mouth and --

Q Ears?

A No, I don't remember that.

Q Any other places on your body?

A Bruises I had afterwards all over.

Q Did you lose any teeth during this beating?

A All what was left was these (indicating).

Q I mean, during this particular beating?

A No.

Q You didn't lose any teeth?

A No.

Q This was a serious business, wasn't it, Mr. Heine?

A Yes.

Q This was not a light beating, this was a serious beating?

A I think so, yes.

Q You were an enemy of the state? This was very serious, as a matter of fact, if they had kept you, you would assume they would have shot you?

A That is for sure.

Q Or tortured you, one or the other?

A Yes.

Q All right, now, in fifty minutes your guerilla group arrived. How many were there in that group?

A They had called in these --

Q Another group?

A Another group.

Q How many --

MR. RASKAUSKAS: Did you say fifty minutes?

BY MR. PRETTYMAN:

Q Didn't you say fifty minutes?

MR. RESKAUSAKS: He said fifteen minutes.

THE WITNESS: Fifteen minutes.

BY MR. PRETTYMAN:

Q I am very sorry. I thought you said "fifty".

So within fifteen minutes your group which had heard that you were captured had contacted another group, a second group?

MR. RASKAUSKAS: The witness didn't state that, Mr. Prettyman. He said they heard shots fired and they knew it was trouble there.

THE WITNESS: Yes.

BY MR. PRETTYMAN:

Q All right, your own group had heard shots fired  
knew  
and they/there was trouble?

A Yes.

Q Did they contact another group?

A Yes.

Q All right, now, how many people arrived to rescue you altogether?

A I believe about eleven.

Q And what happened?

A They began to fire and then killed, I believe, more than half of these N. K. V. D. soldiers.

Q What would you say? Fifteen?

A As the peasants told us afterwards, there must have been about twenty.

Q Twenty or thirty I think you said?

A Yes, maybe so.

Q That were killed?

A Yes.

Q So there must have been between forty and sixty that were there?

A It must be.

Q That captured you?

A Yes, must be.

Q All right, and what happened? Did the Russians then run off?

A Oh, yes, they abandoned it and then ran off.

Q What happened? You were pretty badly injured at this point?

A Yes. Not badly. I could walk and we had to get out of that place as fast as possible.

Q Yes, and you had one wounded man with you and another had been killed?

A Yes.

Q Now, did the two of you go to the hospital?

#4

A In the guerilla forces we didn't have any hospitals.

Q And you received no treatment?

A No.

Q All right, now, what happened then? You had been recognized, of course, by all these soldiers?

A Oh, yes.

Q And these soldiers were in this area. Do you know if there was a price put on your head at that time?

A I heard rumors, yes.

Q How much was the price?

A About fifteen thousand, I think.

Q Fifteen thousand rubels?

A Yes.

Q Whose head was the price on?

A On mine.

Q But I mean, what did they call you?

A After I fled from Viljandi, they knew that I am

alive.

Q Eerik Heine?

A Yes.

Q From Tartu?

A I haven't seen these with my own eyes, but I heard only rumors.

Q That's right, and you heard that there was a price of what? Fifteen thousand rubels?

A Yes.

Q On the head of Eerik Heine?

A Yes.

Q All right, now, what did you do?

A We went out of there, and began to build a new place for us.

Q When you say "for us", did you now join forces with this other group or did the other group go back to their own territory?

A Back to their own.

Q So this now leaves how many of your group left?

A Five.

Q Five?

A Yes.

Q Whatever happened to Helmut Helenurm, the gentleman



whose passport had been stolen? Did you ever see him?

A No, he is probably free. You ought to know that.

In Soviet Russia, when you lose or a passport is stolen, then you have to obtain a new passport and you pay a hundred rubels for punishment and you get a new one.

Q So presumably he went and got a new passport?

A Yes.

Q So at this point they knew that Erik Heine was alive and there was a price on his head, they knew that Helmut Helenurm's passport was gone?

MR. RASKAUSKAS: I object to that question. The witness has never testified that they knew that Erik Heine was alive.

MR. PRETTYMAN: There was a price on his head of fifteen thousand rubels.

THE WITNESS: I heard rumors only.

BY MR. PRETTYMAN:

Q You had heard rumors at this point?

A Yes.

Q I am trying to get this straight in your mind. You were in a dangerous situation?

A Yes.

Q Because you had heard that there was a price on

on your head?

A Yes.

Q You presumed that Helmut Helenurm had reported the missing passport?

A There were so many passports stolen and lost in this land.

Q So that really didn't matter too much?

A No.

Q All right, now, where did you go?

A We made our new place near Varangu. That is a small village.

Q Do you want to spell it?

A (Spelling) V-a-r-a-n-g-u.

Q Varangu is about half way between Tamsalu and (spelling) R-i-k-k-e but west of both of them (indicating)?

A Yes.

Q About how far?

A I believe half way in the middle, I believe.

Q So you were now near the place where the Russian soldiers were camped, I take it?

A No, that is farther away.

Q Farther west?

A They were in Paide, in the town Paide.

Q I thought that was just west of Tamsalu?

A Yes, but --

Q Further away?

A Yes.

Q You were near the soldiers from Tamsalu but not all the way over to Paide?

A In Tamsalu there were no soldiers, only in Paide.

Q You lived in the woods here?

A Yes.

Q And what did you do then?

A Then I believe it was in September or so, one of my boys was arrested.

Q Who was that?

A He is back. That is the guy with whom we fled from Tallinn.

Q He was the man who had had the original contact with the guerillas?

A Yes.

Q And with whom you had gotten out of prison?

A Yes.

Q And he was captured by the Russians?

A Yes.

Q Was that during some kind of a raid?

A No, he went to see his girl friend and was captured there.

Q Can you give us her name?

A He is back now.

Q I see. Proceed?

A The next month another --

Q I want to make clear: You had no job during this time?

A No.

Q You were not an official, you were not an officer, you were --

A Never.

Q -- you were not in the Government or anything of that kind, you were strictly a guerilla?

A Strictly a guerilla. Then, in September, another man was arrested.

Q Can you tell us his name?

A He's back, too, now.

Q Now your band is down to what? Two or three people?

A Four people, I think.

Q Four people including you?

A Yes, including me.

Q All right, and one of these is a girl?

A The girl is after that.

Q Didn't you have a girl member of your band?

A Yes, we had ten men and a girl.

Q That is what I thought.

A Yes, that is eleven.

Q Oh, eleven members of your band?

A That is when you count that girl, yes.

Q Now, so you had a girl with you at this time?

A She came into our group -- it was about '47 -- no, '46, in the winter when these passports were given for people on that countryside. She obtained herself a passport and went to live with the ordinary people in '47 in the winter.

Q She got a passport in her own name?

A No, no.

Q In somebody else's name?

A Because she was a former wife of a former Estonian police official, and she couldn't get her real name into the passport.

Q Anyway, she left your band after she got the passport?

A Yes.

Q Where did she go?

A She went, I believe, nearby. She was by trade to care for animals, a specialist.

MR. RASKAUSKAS: A veterinarian?

THE WITNESS: A veterinarian of some kind.

BY MR. PRETTYMAN:

Q Is she still alive?

A I think so, yes.

Q All right, the four of you there were left, what did you do?

A Yes, four.

Q And one of these, incidentally, was the man who I think you said was wounded and subsequently killed but at this time he was still alive?

A Yes.

Q I suppose we can get his name, then, because he was subsequently killed?

A Yes.

Q What was his name?

A I believe I gave that, Vainomae.

Q I thought that was the man who was pushed into the flames?

A No, that was Puusaag.

Q All right, fine. I am sorry. Go ahead, tell us about your exploits during this period?

A Now, after that another man was arrested. Now we are only four men.

Q Can you give me the name of the man who was arrested? Is he still alive?

A Still alive, yes.

Q So there were now three of you?

A I believe we have four.

Q Four, all right. I am trying to get you through this period now, Mr. Heine, I am trying to help you.

A I understand.

Q I want to know about it in some detail.

A Yes.

Q I think it would be helpful if you told us this as well as you could?

A Yes.

Q We are now up to September '48?

A Yes. In '49 --

Q Take us through '48 first. What did you do between September and the end of the year?

A We hide out in our bunkers.

Q In Varangu?

A Yes.

Q You still had these coins with you?

A No.

Q You didn't have any money, then?

A Oh, yes, we had plenty of money.

Q You still had the gold coins?

A Yes.

Q From the collection?

A Yes.

Q You were selling these occasionally?

A Yes, gold and silver and platinum.

Q Did you go to Varangu, to the town --

A Mostly to Tamsalu, because there were most of  
our supporters.

Q You went back to Tamsalu each time to sell?

A Yes.

Q Did you go to the same person to sell these coins?

A Yes.

Q Some trusted individual?

A Yes.

Q Who was that?

A She is still living there.

Q I see. Is that the girl that you mentioned



previously whom you had known in Tamsalu and you said you couldn't tell her name?

A Yes.

Q I see. All right, go ahead?

A In 1949 --

Q Did you steal during this period, Mr. Heine?

A No.

Q You sold these coins and just lived in the woods?

A Yes.

Q All right. There were no more raids during the balance of 1948?

A No.

Q You were hiding out?

A Yes.

Q You had a bunker in the woods?

A Yes.

Q Just the four of you?

A Yes.

Q We are now into 1949?

A Then there occurred a thing in 1949 in March when we came out of the woods and --

Q So the record will be clear, nothing happened in terms of raids between January and March?

A No.

Q It was a continuation of the same story?

A Yes.

Q You were hiding out in the woods and selling these coins?

A Yes.

Q All right, what happened in March?

A There was a second deportation.

Q I am sorry to interrupt again, there is one thing I want to make clear: You were not stopped and questioned by either soldiers or police between September of 1948 and March of 1949?

A No.

Q All right.

A There was a new deportation in Estonia in March, '49. I believe it was the 25th of March or so and that was so horrible a thing that we decided to come out and try to help these deported to escape and kill so many Russian soldiers as we can.

Q Now you say there was a deportation order. What do you mean by that? Estonians were rounded up?

A Yes.

Q They were going to be deported somewhere?

A To Siberia.

Q Why?

A Because -- The main reason for that this time was that in '48 and '49 there began a drive to press the peasants into kolhozes.

Q Into what?

A Kolhozes.

MR. RASKAUSKAS: Collective farms?

THE WITNESS: Collective farms. Until that time, '48, '49 there were only a few kolhozes, collective farms in Estonia, but now in '48 they began an all out drive to push a hundred percent of Estonian peasants into kolhozes.

#5

There was much resistance against that move and many of these peasants expressed openly their mind about that thing and against the Soviet Government and the main body of these deported were peasants with their families, wives, children and all.

Another part of these deportees were people and their relatives who had served under the German occupation, served in the German Army although maybe the husband or the head of the family was killed or dead in the war; now they took wives and children and other close relatives and rounded them up and took them by cattle cars to Siberia.

Q Let me see if I understand that.

They tried to round up people to work on the collective farms?

A No.

Q And those who refused to go or showed some animosity were reported?

A They tried to push the people to sign statements that they would join the collective farms.

Q Right, and the people who were deported were those who refused to sign?

A Refused to sign and had earlier stated or made statements "That is a rotten thing", and were anti communistic and so on, and the families of people who had served under German occupation and whose husbands or sons or relatives had been in the German Army.

Q I take it, if they had captured you this time, you would have been deported to Siberia?

A No.

Q You would have been shot?

A I would have been shot right away.

Q All right, and you decided to go out and do what?

A To --

Q Excuse me. How many were actually deported as a

result of this, do you know?

A Sixty thousand.

Q Sixty thousand Estonians deported to Siberia?

A Yes. Sorry, correction. That was the first time in 1941, but now they estimated it was three times more, over a hundred thousand.

Q Over a hundred thousand?

A Yes.

Q All right, go ahead?

A And we came out and had some, two times, I think, clashes with --

Q Why did you come out of hiding at this time?

A That was a tragedy for the whole nation and we couldn't care less any more and that would be the end of our nation, and we were desperate, we didn't care any more.

Q This was kind of a suicide move? You thought you would carry some Russians with you when you went down?

A Yes.

Q All right.

A We attacked about three or four cars. That went on two nights. By this time the Russians -- that was usual procedure -- worked only at night, mostly.

Q What do you mean, they worked at night?

A They deported and rounded people together.

Q I see. Just at night?

A Yes, mostly, yes. And we destroyed about three or four of these cars.

Q Do you mean railroad cars?

A No.

Q Do you mean passenger cars?

A Trucks.

Q Army trucks?

A Army trucks, yes. And we freed about altogether about twenty people or so.

Q These trucks were carrying the people who were to be deported?

A Yes, to Tamsalu and to Paide.

Q And you would stop the truck?

A Yes.

Q What would it be? One truck at the time?

A Once it was one truck as I remember and another time three trucks, I think.

Q And these had Russian soldiers in them?

A Usually it was so. There was a civilian in there, truck driver and there was one or two Russian soldiers and then there was a communist official there who

had a list and so on.

Q And you killed all of those?

A Yes.

Q And freed the people?

A Yes.

Q All right.

A That was, I believe, the last active what we did.

Q What months did that occur in?

A In March.

Q That was in March right after the order came down?

A Yes.

Q Were any of your men wounded in that attack?

A No.

Q All right, what happened after that?

A Then again in May, I think, in the spring it was anyway, two more men were arrested.

Q Out of your four?

A Yes.

Q Who were they?

A They are back now, I think.

Q They are still alive?

A Yes.

Q You decline to give their names?

A Yes.

Q All right, that left two of you?

A Yes. That was '49.

Q The two remaining of you still had these gold coins?

A Yes, Oh, yes, yes.

Q How much did you have left by this time?

A Over a hundred gold coins.

Q Over a hundred gold coins?

A Yes. After that silver and platinum and so on. Then we moved. There were only two of us and we moved in a new living place.

Q How were the other two arrested?

A They were with farmers nearby, as we heard. We didn't exactly know, but they visited their family house and the old mother there and there they were arrested.

Q The police were waiting for them?

A Yes.

Q The police knew their identity?

A Yes, they were betrayed. All of those who were arrested were betrayed.

Q They were?

A Yes.



Q By somebody within the group?

A No, no.

Q Do you know by whom?

A For example we heard rumors about that, our leader. The man I killed, Piibeleht, had approached the family that Endel Parts visited frequently to poison --  
What makes you sleep strongly?

Q A sleeping pill?

A Yes, sleeping pill in whiskey they offered him and he drank that and fell asleep and while the soldiers waited, and he came and other people told him that he had tried to escape and he was shot.

Q Who was the informer?

A Probably Piibeleht had arranged that. He was the security official in that region and he had got the information from somewhere that --

Q You don't know where he got the information?

A No.

Q The two of you left in June of 1949?

A Yes.

Q What did you do?

A In 1949, yes, that was on Christmas Friday.

Q Well, what happened between June and Christmas?

A We lived in our new bunker.

Q Where was that?

A There is a place called Vajangu. That is about seven kilometers from that place (indicating).

Q Just put your finger on the map (indicating)?

A I believe Vajangu is here about (indicating).  
That has to be so. On this map you can't pinpoint exactly the distances.

Q Well, I have got my pencil pointed to the place where you were before?

A Yes.

Q Was it north or south or west or east of there?

A That is near to Tamsalu.

Q You were moving east of Tamsalu?

A Yes, I believe so.

Q All right, and you lived in the woods?

A Yes.

Q For six months?

A In December it ended.

Q So from June till December you lived in the woods?

A Yes.

Q Till December of 1949?

A Yes.

Q Were you other than on the occasions that you have mentioned, were you stopped by the police or by soldiers and asked for identification?

A No.

Q Did you see police and soldiers during any of this period?

A In this period?

Q Yes.

A No.

Q You never saw any of them?

A No.

Q So I assume you never came out of the woods?

A We moved nearby.

Q To Tamsalu?

A Yes, sometimes we got to Tamsalu, too and to --

Q To sell your coins?

A Sell coins and to have from peasants, they gave us food and clothing.

Q The peasants knew about you?

A Some, yes.

Q What was the other town you went to?

A Tamsalu.

Q Yes, but I think you said some other town around

ther you went to?

A Not town, village, Vajangu hearby.

Q Varangu?

A Vajangu and Varangu, there are two nearby.

Q And the peasants there knew about you?

A Yes, some.

Q But you didn't get to see any soldiers?

A No.

Q Did you see any police?

A No.

Q What would you do? Sneak in at night?

A We mostly moved at night.

Q All right, you had the same clothing on that you had all along?

A No, we several times had to have another clothing.

Q Where did you get that?

A From these peasants.

Q Would they give them to you or did you buy them?

A They gave us.

Q Because they knew you were guerilla fighters and they were sympathetic to you?

A Yes.

Q All right, we are now to December of 1949?

A Yes.

Q What happened in December?

A My last man was killed.

Q Well, then, what was his name?

A Vainomae.

Q All right, how did that come about?

A It was near Christmas and we were in that bunker and I felt myself very, very bad and I told Vainomae, "Let us go out and look the girls up in Tamsalu".

Q What girls?

A Our acquaintances and our supporters.

Q Go ahead?

A And he was preparing a meal there at this time and he told me "All right, go ahead. I will come after you", and --

Q You mean, you wanted to go in and have dates or just reestablish some kind of contact with them or let them know you were all right?

A We established dates and we were all right.

Q You were dating these girls during this period?

A Pardon?

Q You were dating these girls during this period?

#6

Do you know what dating meant to have a date? To date

some one means to go out with them on a social occasion.

A They were our girls, let us say so.

Q They were what?

A Our girls.

Q Well, let me see. How am I going to say this?

These were your girl friends?

A Yes, let us say so.

Q All right, you had gone to them at night?

A Yes.

Q There were two of them?

A Mine was there and my friend had one too, yes.

Q Are these two names that you won't give us?

A They are still there, yes.

Q Do you decline to give those names?

A Yes.

Q Are they the same two from your childhood that you mentioned before or are they different ones?

A Different ones.

Q All right, so you said "Let us go in and see the girls"?

A Yes, and he said as I remember "Go ahead and I will come after you in a while", and I went to Tamsalu and was by that girl when we heard the next morning that --

Q You were spending the night with the girl?

A Yes.

Q All right.

A In that vicinity there had been a battle and one man was killed and as it turned out, it was Vainomae.

Q There was a battle?

A Yes.

Q Between whom?

A Between Vainomae and these N. K. V. D. soldiers who came to capture him.

Q How many soldiers did he kill in the battle?

A The peasants said there must have been four or five.

Q That he killed before they killed him?

A Yes.

Q How did they come upon him? Did you ever hear that?

A I don't know that, but I presume as I reconstruct the story that there must have -- they could have done that.

Q They could have done what?

A Found our bunker.

Q They were looking for it?

A They knew where the bunker was and they attacked.  
They had to know.

Q They had some advance information?

A I believe so.

Q From some informer?

A I believe so, yes.

Q You were very fortunate, weren't you, Mr. Heine,  
who started out with ten and you were the only one left?

A Yes.

Q Now, this leaves you at the girl's house in Tam-  
salu?

A Yes.

Q In December of 1949?

A Yes.

Q And your band is now destroyed?

A Yes.

Q Did you still have the gold coins with you?

A Yes.

Q They hadn't been left with the man who was killed?

A We had these coins hidden in one place. When  
we needed that we took out and then -- as many as we wished.

Q Where were they hidden?

A Near --



Q Near your bunker?

A No, not near our bunker. It was in Paide. I told you that the lady whose husband was numismatic, had given that to us and that these coins stayed in that vicinity and when we needed it, we knew where they are and we took as many as we wanted.

Q Well, now, I misunderstood you. You mean that this lady kept the coins herself and you would go back and get them?

A No, she lived in Tallinn this time. Sometimes she visited this farm where they lived before the Russians came.

Q Where were the coins? Just tell me physically where they were?

A Near a farmhouse.

Q Well, in the ground?

A Digged in the ground, yes.

Q In the ground near a farm?

A Yes.

Q Near Paide? Have I got the name right?

A Not near Paide. When I reveal that name, where it was, then it makes trouble for these people. Let us say near Varangu and Vajangu, let us say so.

Q Was it somebody's house?

A Not in a house, outside the house.

Q Outside somebody's house?

A Yes.

Q Of course, those people knew about the coins?

A The old lady knew about this because these were her husband's.

Q No, no, the people who lived in the house, outside of which the coins were buried?

A Yes.

Q They knew that the coins were there?

A Oh, yes.

Q They knew that you were coming to pick them up from time to time?

A Yes, they belonged to us.

Q Yes, they belonged to you, but the people in the house knew about it?

A Oh, yes, they knew.

Q Those people are still there?

A Yes, they are still there.

Q They are still living on that farm?

A Yes.

Q You decline to give their names?

A That makes trouble for them.

Q I know, but I am just trying to make it clear on the record that you decline to give their names?

A Yes.

Q Did you have an overcoat at this time?

A Oh, yes.

Q Was this an Estonian overcoat?

A Yes, Estonian.

Q Did you have any military clothes on at all?

A No.

Q Did you have any papers on you during this period besides your passport?

A No, the passport.

Q That was all?

A Yes.

Q What were you wearing? Boots?

A Yes.

Q Russian boots or Estonian boots?

A Estonian army officer boots.

Q Army officer?

A Yes.

Q Well, what army? The German army or the Russian army?

A Estonian Army.

Q Which Estonian army?

A The former Estonian Army officer boots.

Q Not the Russian-Estonian?

A No.

Q Estonian before German or Russian occupation?

A Yes.

Q O. K., now, what happened between January 1950  
and the time you were captured?

A I stayed by that girl.

Q You lived with her?

A Yes.

Q What town was this now? Tamsalu?

A Tamsalu.

Q Is she still living?

A Yes.

Q And you decline to give her name?

A Yes.

Q Is she still living at Tamsalu?

A Yes.

Q Was she your age?

A A couple of years older.

Q Had you ever known her before?

A No.

Q You had never seen her before?

A No.

Q How did you make her acquaintance?

A She was acquaintance of a friend with whom I fled from Tallinn.

Q The original contact with the guerillas?

A Yes.

Q She was a friend of his?

A Yes.

Q And he introduced her to you at one time?

A Yes.

Q And you fell in love?

A Well, you can't say that.

MR. RASKAUSKAS: I object.

BY MR. PRETTYMAN:

Q And when was the last time you saw her, Mr. Heine?

A It was maybe a couple of days before my arrest, being arrested. That was '50, 1950 in July.

Q Where did she live, in a house?

A Yes, a small house.

Q And who lived in it?

A She, her brother, father and mother.

Q They knew you were living with this girl?

A Yes.

Q They were all Estonian?

A Yes.

Q And you decline to give their names?

A Yes.

Q Now, did you ever go out?

A At nights only, to take a little walk.

Q It was at night that the Russians were active,  
wasn't it?

A Deporting, yes, and interrogating.

Q And rounding up people?

A Deporting, yes, and arresting people, too.

Q What about her brother, why wasn't he deported?

A He had not been in German Army.

Q What did he do?

A They had a small workshop or garage or something.  
He worked as an apprentice.

Q A mechanic?

A Mechanic. They made all sorts of blacksmith  
work shop.

Q You didn't have a job during this period?

A No.

Q Did they give you food?

A Yes.

Q And is each member of this family still alive?

A Yes.

Q How do you know that? Have you corresponded with them, any member of the family?

A In the beginning, yes.

Q In the beginning of what?

A I came to Canada.

Q And you wrote letters to the girl?

A I believe two, yes.

Q Two letters to her?

A Yes.

Q Did she write you back?

A Yes.

Q What did she tell you? Do you still have those letters?

A I believe, yes, I have.

Q What did she tell you in those letters?

A All is O. K. and she works now in a new place.

I can't recollect correctly what it said.

Q I guess you had to be careful about what you said in those letters? You didn't know if some one would see

them?

A Yes.

Q But you were still able to get the message across to her? What I am trying to get at, there was nothing secret about the letter? In other words, these were just open letters between somebody who had lived with a girl and the girl?

A Yes.

Q Is that correct? You weren't trying to get a special message to her or anything of that kind?

A That I am alive.

Q That you were alive?

A Yes.

Q And she wrote you just a normal letter back saying that she had a new job?

A Yes.

Q And that everything was all right?

A Yes.

Q So you stayed in this house during the daytime?

A Yes.

Q And would take a walk at night?

A Sometimes, yes.

Q For six months?



A Yes.

Q All right, and during this time the soldiers and the police never came to the house?

A No.

Q And you were never picked up on the street?

A No.

Q You were never asked for your passport?

A No.

Q Or for identification?

A No.

Q No one recognized you?

A No.

Q Did their friends come in from time to time into their house? I assume their neighbors stopped in from time to time?

A Yes, sometimes.

Q And they would see you there?

A No.

Q Would you hide?

A I was in the back room there.

Q You were in a room by yourself or in her room?

A Her room, yes.

Q So nothing happened between January and June of

1950 of any moment? In other words, you just lived a hermit's life so to speak?

A Yes.

Q All right, what happened then?

A That began to get on my nerves, that sort of life and I thought and made plans to escape to Finland. I went to -- I had these coins with me and went to Tallinn.

Q You went back to the place where the coins were hidden?

A Yes, I took from there out about twenty or so coins.

Q How did you get there? Did you walk?

A Yes, that is not far.

Q How far was that?

A That place is about ten, fifteen kilometers from Tamsalu.

Q And you told the girl that you were leaving?

A Yes.

Q You got the coins?

A Yes.

Q Then, what did you do?

A I went to Tallinn.

Q How did you get to Tallinn?

A By train.

#7

goto Finland and I was --

Q Did you have friends in Finland?

A No. I would succeed by this thing. By this time in Tallinn was a great, big folksong festival.

Q Where?

A In Tallinn. And that was -- had been in our country a big event since memory remembers and I wanted to see that -- what was there and what they sang and how that was going on.

Q You wanted to attend the music festival?

A I was foolish enough, yes, and my thought was that when I get over to the West I have then something to tell about this event. Every four years I think.

Q When was this festival, what part of the year?

A In July.

Q July of 1950?

A Yes.

Q When, do you remember?

A I believe the 20th, 21 or 22.

Q 20, 21 or 22?

A Yes.

Q All right?

A And I was foolish enough to go there and I was

Q You bought a ticket?

A Yes.

Q Did anybody ask you any questions after you got on the train?

A No.

Q Did they take your ticket?

A They punched it.

Q Punched your ticket?

A Yes.

Q But nobody stopped you on the train?

A No.

Q Nobody asked for papers?

A No.

Q Nobody asked for your passport?

A No.

Q Did you see any police?

A I saw them, yes.

Q But they didn't recognize you or stop you?

A No.

Q And you went to Tallinn?

A Yes.

Q What did you do when you got to Tallinn?

A I -- There was -- I had further intention to

arrested there.

MR. RASKAUSKAS: May I suggest that we take  
a mid-morning break now?

MR. PRETTYMAN: Yes.

(Whereupon a ten minute recess was taken.)

- - -

BY MR. PRETTYMAN:

Q Mr. Heine, you are quite sure about the date of this music festival being in July?

A Yes.

Q And what was this, a four-day festival? I may have misunderstood you on that, it was just one afternoon.

A Every four years.

Q And how long did the festival last?

A A couple of days.

Q And were these Estonian performers?

A Yes.

Q And you wanted to go and hear the music?

A Song. There were tens of thousands of singers.

Q Thousands of singers?

A Tens of thousands of singers.

Q Tens of thousands of singers?

A Yes.

Q They wouldn't all sing at once?

A Oh, yes.

Q They would?

A Yes.

Q And this had been going on for many years every four years?

A Yes.

Q And the Russians allowed this to take place?

A They had to allow that.

Q Had you heard this festival before?

A Yes.

Q How many times had you heard it before?

A I believe on two occasions.

Q That would be what, four years before?

A No; Estonian time.

Q Prior to the --

A Prior to the occupation, yes; prior to 1940.

Q Prior to 1940 while you were still a schoolboy,  
you heard it twice?

A Yes.

Q And you had not heard it between 1940 and 1950?

A No.

Q You returned to your own town, so to speak, in  
the sense that this was the town that your passport showed  
that you were living in?

A Yes.

Q And you were under the name of Helenurm then?

A Helenurm.

Q What was your first name?

A Helmut.

Q You are pretty sure of this, aren't you, Mr.

Heine?

A Yes.

Q This is the passport you carried for well over a year?

A Yes; Helmut.

Q And, of course, you had been to Tallinn many times in the past, hadn't you?

A Yes.

Q You had been imprisoned just north of there?

A Yes.

Q So you now returned, and so far as you knew the price of your head was still 15,000 rubles?

A These were rumors.

Q Rumors, but you hadn't heard that had been taken off?

A No.

Q And you got off the train in Tallinn?

A Yes.

Q And nobody questioned you?

A No.

Q Nobody recognized you?



A No.

Q No police stopped you?

A No.

Q No soldiers stopped you?

A No.

Q No one asked for your papers?

A No.

Q You went to the music festival?

A I visited some friends in Tallinn.

Q Who were they?

A One was my old school director -- how it's called  
here?

Q Principal?

A Yes.

Q The principal of your school?

A Yes.

Q What was his name?

A Constantin; that's the first name; Treffner.

Q Had you seen Mr. Treffner between 1940 and 1950?

A I believe so, yes.

Q When had you seen him?

A Once before.

Q When?

A When I was in Tallinn, and we met on the street.

Q What year was it, do you remember?

A That I have to figure out.

Q I mean what period was it. Was it a period when you were a prisoner, or was it a period when you were in guerrilla activities?

A In guerrilla activities, I believe.

Q Was he in guerrilla activities?

A No.

Q Do you remember the year?

A '48, I believe.

Q 1948. Do you remember the part of the year?

A In the winter.

Q In the winter of '48?

A Yes.

Q He was living in Tallinn with his family?

A His wife.

Q And why did you go to their house?

A They had, when I first met them, they invited me to visit them.

Q They must have been surprised to see you?

A Yes; he was.

Q He knew about your activities?

A Not all, but some.

Q How much did he know about your activities?

A Mostly from 1940.

Q The flag incident?

A Yes.

Q He didn't know what you had been doing in the  
meantime?

A No.

Q Did you tell him?

A I told only that I was a guerrilla.

Q And you didn't give him any of your history?

A No.

Q How long did you stay with him?

A Maybe a couple of hours.

Q What happened?

A Then I went to that songfest.

Q That was in the middle of the day?

A These songfests begin in the morning, you see,  
and last all day, and the next day.

Q It doesn't go through the night?

A No, no.

Q It starts in the morning, and it goes through  
until what, evening?

A Evening, yes.

Q Late evening?

A Yes.

Q And then starts again the next morning?

A Yes.

Q And goes through to the late evening?

A Yes.

Q You think this was around the 20th-what of July?

A 21st or 22nd.

Q 21st or 22nd. You are fairly sure of that because this was a well-known date?

A Yes.

Q The 21st or 22nd of July?

A Yes.

Q Where was this festival held?

A On the outskirts of Tallinn.

Q In a grove of trees? Was it outside or was it inside an auditorium?

A No. There was a special building for these singers and it was in some kind of amphitheater, National Amphitheater.

Q Was it all covered?

A No, no.

Q It was outside?

A Yes; but only for the singers. It was a building that was half-covered so that the voices carried. You know when the orchestra plays in some open --

Q They were on a stage?

A Yes.

Q And the stage was partly covered?

A Yes.

Q But the audience sat out in the open?

A Yes.

Q It must have been a rather large stage?

A Oh, yes.

Q Very big?

A It holds about over 100,000 people who attended.

Q Listened to it?

A Yes.

Q And you walked there?

A Yes.

Q At this time what did you have on?

A I had a suit, trousers.

Q These were civilian clothes?

A Civilian clothes.

Q And your Estonian officers' boots?

A No; pants only; real civilian clothes.

Q And shoes?

A Yes, and shoes.

Q Any kind of jacket?

A No; like that about (indicating); brown.

Q A brown suitcoat?

A And pants, yes.

Q And a tie?

A Yes.

Q And a shirt?

A Yes.

Q And a hat?

A No; no hat.

Q Did you have a watch?

A Oh, yes, I had one.

Q And glasses?

A No.

Q Do you wear glasses just for reading?

A Yes.

Q You don't wear them normally?

A No. My eyesight went bad after I finished that movie. I strained my eyes too much.

Q You never wore glasses before 1957?

A No.

Q Where had you gotten the watch?

A That girl gave me that.

Q That was her watch?

A No. It was her brother's, I believe.

Q Her brother's watch?

A Yes.

Q What else did you have on you at this time? What were you carrying?

A I was carrying my passport and some ten or 15 gold coins in my pocket.

Q Did you have a wallet?

A I don't think so.

Oh, yes; I had a wallet, yes.

Q What was in it?

A My passport and these gold coins.

Q And where had you gotten the wallet?

A From that girl, too.

Q That was her brother's?

A Yes.

Q Did you have any letters?

A No.

Q Anything else?

A No.

Q No arms?

A No.

Q Or a knife?

A Oh, yes; I had my pistol.

Q What kind of pistol was that?

A That same Luger.

Q That same one?

A Yes.

Q And did you have it in the same place?

A Yes.

Q Next to your stomach in your belt?

A Yes.

Q Think very carefully:

Have you told me everything that you were carrying  
at that time?

Take your time and think.

A Yes, I think so.

Q Any rings?

A No.

Q Handkerchiefs?

A That is so small a thing that I don't --

Q I am trying to get you to tell me --

A I don't know that; maybe I had, maybe not. Maybe I



used the Russian handkerchief.

Q You went to the festival, and there were thousands of people there?

A Yes.

Q What happened?

A Let's say that the building looks like that (indicating).

Q Rounded?

A Not rounded (indicating).

Q Indented?

A Yes, deep; and here it goes higher on the backside, here (indicating).

Q For the seats?

A The seats are going a little bit higher, too, but here is --

Q It was a slope, a rather steep slope?

A On the backside, yes. I went here on the backside near the slope. I sat down on the ground and, incidentally, I met there in that crowd one of my schoolday friends.

Q Who was that?

A His name was Joab; I don't remember the first name.

Q Had you seen him between 1940 and this period?

A I believe he was with me at that military academy in Bad Toltz in '43 or '44.

Q He was in training to be an officer?

A Yes.

Q And was he in your company?

A In that school, yes.

Q In the school?

A Yes.

Q He was in your class?

A No. We Estonians were spread all over these thousands -- not in my squad.

Q But you did see him there?

A Yes.

Q And he remembered you from your schoolboy days?

A Yes.

Q Have you ever seen him since 1950?

A No.

Q Whatever happened to him, do you know?

A I don't know.

Q Nobody has ever mentioned him again?

A No.

Q And he was just there to enjoy the music, too?

A I thought at first, but it came out otherwise.

Q Tell me about that.

A We sat there on that slope, and he began to ask me how it's going with me and what I have been doing, and so on; and although he was a school friend and a fellow soldier, I told him only what I have been doing during the war, that I was there and there, and that I was captured, and I was then brought back and released. I didn't tell him about these guerrilla activities.

Q Did you tell him you had ever been captured by the Russians?

A No. I didn't tell him nothing.

Q Did he remember your name?

A He?

Q Yes.

A Yes.

Q He knew you were Eerik Heine?

A Yes.

Q He called you "Eerik"?

A Yes.

Q Go ahead.

A And then suddenly he went in -- maybe a half an hour we had sat there -- and he excused himself and said, "I have to go to the washroom," and then maybe in 20 or 30 minutes

he came back and sat again beside me, and maybe we talked ten minutes more, or 15, and then suddenly four men jumped me from behind. They jumped in this way with their feet on me (indicating), so that I was pressed down and I was arrested.

Q Were these men in uniform?

A No.

Q They were in civilian clothes?

A Yes.

Q Had you ever seen any of them before?

A No.

Q So, what happened?

A I was pulled up, and two men held my hands and two walked behind me, and I was pushed and taken over toward that building where the singers were singing right at that time.

Q Were they armed?

A I didn't see any arms. Maybe they were.

Q What did these thousands of people do when you were suddenly jumped on?

A Have you ever seen when a hawk catches a hen, they go in every direction?

Q They all ran?

A They all ran from my presence.

Q It must have been quite a sight.

A Yes.

Q 100,000 people?

A It was in the backside, not all these 100,000 people saw it, but maybe a couple of hundred in that nearest vicinity, they saw it.

Q And they all ran?

A Farther away, yes.

Q And then they took you back towards this building, and then what happened?

A On the backside of that building there are several offices, and then rooms, and what they are, and in one of them probably it was a policeman, an NKVD headquarters; these forces who were in that ground to check for security reasons.

Q The only reason you had for coming to Tallinn was to go to this music festival?

A I was on the way to Finland, and I thought it's a good idea to look up what is happening there, and then go on.

Q Was Tallinn the jumping-off point, so to speak, for Finland?

A Yes.

Q You would have flown from Tallinn?

A No.

Q Boat?

A No; train.

Q You were going to take a train from Tallinn?

A Yes.

Q Could you have gotten a train from, we'll say, Kohtla-Jarve, or some place other than Tallinn? Actually, Tallinn is west of where you started out, wasn't it, and you were really going east?

A North.

Q But northwest?

A We can say so, yes.

Q I don't want you to just say so. Look at the map.

A (Witness complies).

Q You were here at Tamsalo (indicating)?

A Yes.

Q And so you then went partly north, but mostly west to go to Tallinn?

A Yes.

Q You were going to take the train then back east?

A Right.

Q Where does the train go?

A Here, to Leningrad (indicating).

Q And then north from Leningrad?

A No; not north, here (indicating).

Q North?

A I don't remember which station I took, but Petro Zavodsk --

Q That was the station you landed at?

A No. I came off in to make that vicinity and got here around, Lake Ladoga(indicating).

Q The record can't tell what vicinity you are talking about. Name a town in here (indicating).

MR. RASKAUSKAS: I don't understand; the question is, is this on the trip he was going to take?

MR. PRETTYMAN: Mr. Raskauskas, the gentleman is testifying. He can tell me what he did or didn't do.

MR. RASKAUSKAS: I understand that, but I would like to know, doesn't he have a right to know what is going on here, and it escaped me.

MR. PRETTYMAN: You can follow him as well as I can.

MR. RASKAUSKAS: No; I can't follow all these questions.

MR. PRETTYMAN: Why don't you come around here and look at the map.

MR. RASKAUSKAS: I want to know if the question is,

is he showing you a proposed route?

THE WITNESS: I planned to go to Leningrad and take from Leningrad a ticket to Petrozavodsk, but come out of that train somewhere, here (indicating).

BY MR. PRETTYMAN:

Q You can watch this if you want to, so you make sure you understand what I am doing.

You were going to take a train to Leningrad?

A Yes.

Q You were going to take the train from Leningrad to Petrozavodsk, but not reach Petrozavodsk?

A Yes.

Q You were going to stop off the train at about, let's say, Dodeynoye Pole?

MR. RASKAUSKAS: I object.

THE WITNESS: Some place near.

MR. PRETTYMAN: What do you object about?

MR. RASKAUSKAS? You are suggesting where he is going to get off the train.

MR. PRETTYMAN: I pointed to this town, and I am supplying for the Reporter --

THE WITNESS: Some place, here (indicating).

BY MR. PRETTYMAN:



Q Why were you going to get off here?

You tell me where you were going to get off near, so the record can understand.

A Near here (indicating), so that I could walk then.

MR. PRETTYMAN: The point is, when somebody is reading this later, "near here" won't mean anything on the record. Tell where "near here" is for the record. Just say the general vicinity of where you wanted to get off. You can describe it by naming some towns there, or however you want to do it, but it has to show on the record what you are talking about.

MR. RASKAUKAS: Say you don't know; say you have never been there; say you don't know.

THE WITNESS: No, I don't know that. I can't point out exactly where I would jump off the train.

BY MR. PRETTYMAN:

Q Mr. Heing, you point on the map to the general area that you intended to get off the train.

A The general area is the east corner of --

MR. RASKAUSKAS: I suggest he make a mark on the map, and identify the map, and give it to the Reporter. We don't propose to sit here eternally to take a deposition on a

trip he never took.

Mr. Prettyman, this is getting very remote and very harassing, I think. The man never took the trip. He has already given an exhaustive answer.

MR. PRETTYMAN: Whether he took the trip or not, he has not testified to yet. We haven't gotten to that.

He is now telling me the plans that he had, and this is very relevant, and I am conducting the examination, and I am not marking this map. I am asking him to identify on the map the area where he intended to get off the train.

He was about to do it when you interrupted, and I think we are wasting a great deal of time by your interrupting.

MR. RASKAUSKAS: You are suggesting names to him.

MR. PRETTYMAN: I am not suggesting anything to him.

MR. RASKAUSKAS: The record will show you suggested a name to him. You suggested a name of a town, and that is what I objected to.

MR. PRETTYMAN: I spelled for the Reporter the name of the town that Mr. Heine was pointing to with his pencil.

If you want to do it the long and roundabout way, I am perfectly happy to do it.

BY MR. PRETTYMAN:

Q Now, Mr. Heine, you are pointing to an area on this map. I want you to describe for the Reporter as best you can and in whatever language you want the area that you are pointing to so that the record will reflect that.

A Some place here (indicating).

Q "Here" means nothing on the record. You describe as best you can the area that you are pointing to.

A I am not familiar with this name, but in this area is a point called -- what is it, you spelled it earlier?

MR. PRETTYMAN: Are you happy to have me spell it, or do you want him to spell it?

MR. RASKAUSKAS: No. You may spell it.

MR. PRETTYMAN: L-O-D-E-Y-N-O-Y-E, P-O-L-E.

BY MR. PRETTYMAN:

Q You have circled, as I see it here, a general area, the middle of which happens to be this town with which you are not familiar except that you see it on the map; is that correct?

A Yes; that's correct.

Q You intended to get off the train at that area, and go where?

A Alone that shore of Lake Ladoga (indicating).

Q West?

A West.

Q To Finland?

A To Finland.

Q What was your ultimate destination?

A Finland.

Q Where in Finland? Just anywhere?

A Let's say the American Consulate in Helsinki.

Q You were going to go to the Americans at this stage?

A I wanted to go west into the Free World, and I thought then I can -- those were my plans -- I asked for political asylum from the American Consul here in Helsinki.

Q Now, by looking at the map you can see this is the shortest route. In other words, you could have gone directly west from Leningrad (indicating).

Why did you choose to go up the southeastern shore of what is apparently this lake, Lake Ladozhskoye Ozero?

A Because that is for sure very tightly populated, and here are already great forests, and the main thing you can use that shoreline for a sure guide so that you can keep your direction when it's cloudy or no stars or sun is shining,

you can keep your directions westward.

Q Had you ever been there?

A No.

Q Have you ever been there since?

A No.

Q How did you know about this route?

A I figured it out myself.

Q Did you get a map?

A Pardon?

Q You got a map?

A Estonian map, yes.

Q Where did you get that?

A In every house we had Estonian maps.

Q And you got out a map and figured that you would go on this railroad?

A Yes.

Q Did you have a timetable?

A No.

Q It was a railroad map? It showed where the railroads went, and so forth?

A Yes; with railroad, yes.

Q To go back then originally, instead of going from Tamsalo east toward Narva, which would have been your fastest

route, you went backwards, west to Tallinn.

Now, my original question was, I assumed you went that way in order to hear the musical festival, you didn't have to go that way to get on the train?

A No.

Q That was the point I was trying to make.

So, your only point of going to Tallinn, rather than toward Narva was to hear the music festival?

A Yes.

Q You didn't have some ulterior motive?

A No.

Q You weren't meeting someone or going to engage in some activity?

A No.

Q This was just to hear the music?

A Yes.

Q Now, these men arrested you?

A Yes.

Q And this was the 20th or 21st of July, 1950?

A Yes.

Q And they took you to an NKVD headquarters?

A In that area.

Q Near the festival grounds?

A Yes.

Q What happened to you then?

A There they took my passport, and they found my Luger.

Q They knew who you were now, didn't they?

A This time, no.

Q They didn't know?

A No.

Q Your friend hadn't told them who you were?

A Did I say that he betrayed me? I only thought that he betrayed me; I am not sure.

Q He knew who you were with?

A Yes.

Q He called you by your right name?

A Yes.

Q He left and came back 20 minutes later?

A Yes.

Q And ten minutes after that, four men jumped on you?

A Yes.

Q They were NKVD agents?

A Yes.

Q They didn't know who you were?

A No.

Q Go ahead.

A And there they found my Luger; they took all what I had in my pockets; and I was there about maybe half an hour. I was transported again through that crowd in the back-side, and there was a car waiting.

Q During that half-hour, what questions did they ask you?

A "Who are you?" "What are you doing?"

Q Who did you tell them you were?

A That Helenurm.

Q With your address right there in town?

A Yes.

Q "And whom did you want to assassinate here," because there were high Soviet officials attending that festival.

A And then I was taken by car.

Q What did you tell them?

A I said nobody.

Q All you gave was this name?

A Yes.

Q On the passport?

A Yes.

Q And the address?

A Yes; that's all.



Q That's all the questions they asked you?

A Yes.

Q Go ahead.

A Then I was taken out of that building, and put in a car, that was a special car for prisoners.

Q You mean like a police van?

A A police van, yes; and I was alone there in that car.

Q You were locked in?

A Locked in and then I drove to that town, and we stopped by NKVD headquarters in Tallinn. I was taken out.

Q Was this near the address on your passport?

A I don't remember that. I don't think so.

Q You knew Tallinn pretty well, didn't you, Mr. Heine?

A Yes.

Q You had been there many times?

A Yes; but I don't know all the streets.

Q You don't remember the name of the street that was on your passport?

A No, I don't remember.

Q Continue.

A And I was taken out of that police van and -- one correction there -- I was put in handcuffs before I was put into that van -- and I was taken out and taken to a courtroom in that building and searched thoroughly, stripped.

Q They took all your clothes off?

A Stripped, yes. And after that I was put into a box.

Q A what?

A A box. We called it box-size. You can't stand there, and you can't sit there; halfway each way.

Q Explain it. This was a box. How big was the box?

A About that height (indicating).

Q How tall are you?

A Six feet.

Q You are six feet?

A Yes.

Q And this box was about six feet tall?

A A little bit more so that you could stand.

Q Six foot, two or three inches high?

A Yes.

Q How wide was it?

A Like so (indicating).

Q What would say that is, three feet wide?

A Yes; maybe.

Q And it was completely closed on all sides?

A Completely closed, yes.

Q What was the point of putting you in the box?

A When we come to that place, there are many other methods to destroy the spirit and morale of these prisoners. There were several, not only one, but that was the usual procedure.

Q Several boxes?

A Yes; about four or five.

Q You said you couldn't stand and you couldn't sit, but you just indicated it was over six feet tall?

A It was so that, this way, it was so that you couldn't sit (indicating).

Q It was so thin that you couldn't sit down?

A Yes.

Q You could stand up?

A Yes; somehow, yes.

Q It was taller than you were, so you could stand up?

A Yes.

Q Go ahead.

Q And there I spent about, I believe, two days.

Q Two days inside the box?

A Yes.

Q How did you breathe?

A There were these holes in that. There was a door, too, and on the door was a hole, and on that door was where they could open a little opening.

Q A little opening?

A Yes.

Q And how did they feed you?

A They gave water and bread, some bread, when they had it to feed you.

Q How often did they feed you during the two days?

A I believe one time only.

Q A little bit of water?

A Yes.

Q And a little bit of bread, and that was all?

A Yes.

Q All right.

Now, before this, before they put you in the box, they had not fingerprinted you?

A No.

Q And they had not interrogated you other than the

original few questions about who you were?

A Yes.

Q What happened at the end of the two days?

A Then I was --

Q How did you go to the bathroom?

A When you needed then you had to knock on that door.

Q And they let you out?

A Sometimes they let you out; sometimes, no.

Q Wait a minute. Sometimes they let you out.

How many times did you have to go to the bathroom in the two days, do you recall?

A I went two times.

Q Did they let you out, or didn't they?

A No. That is what I mentioned that sometimes they let you out, and sometimes not. That comes afterwards.

And after these two days I was taken to an office like a room.

Q This was still in town?

A Yes; still in town. And then there was my first interrogation.

Q You were in the central NKVD headquarters in Tallinn?

A Yes.

Q There was no question about where you were?

A No; that is for sure.

Q You were taken out and interrogated by whom?

A There was some major.

Q Do you remember his name?

A No, I don't.

Q Did you know his name at that time?

A No.

Q Was he in uniform?

A Yes.

Q And he was Russian?

A Yes.

Q He was the only one in the room?

A There were some others, too.

Q Soldiers?

A Officers.

Q In uniform?

A Yes.

Q How many all together?

A Two more, I believe; as I recollect.

Q Tell us what happened.

A They began to ask me questions, who I am, and what

I am; and I at first tried to use that passport what I had, and that went about several hours that I was beaten there.

Q Three of them beat you?

A Yes.

Q What did they beat you with?

A Fists.

Q No guns?

A No.

Q Were you bleeding?

A From the nose, yes.

Q From the mouth?

A Yes. And then, I was taken back to that box.

Q The beat you just around the face?

A Yes.

Q Did you lose any teeth?

A No. And then --

Q How long did that go on?

A About two hours.

Q Two hours of beating?

A No; not all the time beating.

Q Off and on?

A Off and on. They asked again what I am and who I

am.

Q You had been stripped so they --

A No.

Q I thought you said before that you had been stripped?

A I wasn't stripped there.

Q So, presumably they knew you were a former SS officer?

A Yes, I presumed they knew.

Q You could tell from their questions, you knew that didn't you?

A This time they didn't ask that. They asked me to tell who I am.

Q You knew they knew presumably that you were an SS officer?

A Presumably, yes.

Q From the mark on your arm?

A Yes.

Q Did you also presume that in view of how you had been captured that they knew who you were?

A I was not sure; maybe they did; maybe they didn't.

Q You didn't really have much doubt about why you were captured, did you, Mr. Heine?

MR. RASKAUSKAS: I object.

THE WITNESS: I believed half and half; maybe they



don't know or maybe they know. I tried to go on with that passport name, and so on.

Q They didn't accept that?

A No.

Q And they kept beating you?

A Yes.

Q All right.

MR. RASKAUSKAS: We were going to break at 12:30. I have an appointment.

MR. PRETTYMAN: All right.

We shall resume at 1:45.

(Whereupon, by agreement of counsel a luncheon recess was taken at approximately 12:30 o'clock, p. m., to be resumed at 1:45 o'clock, p.m.).

- 0 -

AFTERNOON SESSION

(Whereupon, at 1:45 o'clock, p. m., the taking of the deposition was resumed).

BY MR. PRETTYMAN;

Q Before lunch, Mr. Heine, you were telling us that you had been placed in a box by the Russian authorities.

Will you tell us what happened next?

A I was two days there, and then I was taken first time to an interrogation.

Q And I believe you said that there were three men?

A Yes.

Q Now, you were put in the box before or after the first interrogation?

A Before.

Q And then the three men, how long did they interrogate you?

A It was at nighttime, maybe four or six hours.

Q And what questions did they ask you? What information were they trying to get out of you?

A Who I am, and what I am, and I had to tell them where I have been, and what I have done, and so on.

Q What did you tell them?

A First I tried to stick to that passport story, the name; but maybe after a couple of hours I dropped that

because they insisted, and beat me, that that is not true and then I --

Q They were beating your during this period?

A Yes.

Q And you finally gave in?

A Yes.

Q And you told them what your real name was?

A Not yet.

Q Go ahead.

A I told them my name is Eerik Hein.

Q Spell that so we make sure that we have the right one.

A H-E-I-N (spelling).

Q What address did you give them?

A I gave that address I gave for myself when I was in that prison camp in Tallinn as a prisoner of war, in Tartu.

Q What address did you say your grew up at? They must have asked you for your home address?

A Yes.

Q What was your home address?

A Tartu, yes; the city of Tartu.

Q Your actual address?

A No.

Q What address did you give?

A I gave the same address when I was interrogated in that prisoner of war camp by Tallinn.

Q What address was that?

A I don't remember now that exactly.

Q Do you remember the street?

A No, I don't remember.

Q But you do remember it was in the town of Tartu?

A Yes.

Q Was it the street that you had actually lived on or another street?

A Another street for sure.

Q Was it a street that a friend of yours had lived on? Is that what made you think of it?

A I remember that address was so calculated that there is no house any more left. That there was nothing, only ruins.

Q You gave a false address of an empty lot?

A Yes.

Q You were still in Tallinn at this time, the time of this interrogation?

A Yes.

Q Go ahead.

A And I began to tell the story that, I didn't tell them that I am an officer, and I told them that I was in that army unit.

Q What army unit?

A My old army unit that I was in on the Narva Front.

Q You mean the German unit?

A No; Estonian. And I tried to belittle all this background, again I tried that old gimmick my mother was a washwoman and so on; and from when I was captured and then when I came back to Estonia; I tried to cover these things as I had previously done this.

Q You what?

A Previously. For example, in that prisoner of war camp in '45.

Q You mean north of Tallinn?

A Yes.

Q You told them about that?

A Yes.

Q You told them you had been there?

A Yes.

Q And you told them you escaped?

A No; I told them I was released.

Q Go ahead.

A And I went all over the rest of it, I believe, in that interrogation.

Q Did they believe this story?

A They said, "Don't lie! Don't lie!" but I stuck by my story.

Q You didn't tell them you were in the German Army?

A No; Estonian, the 20th Division.

Q You didn't tell them you were an SS man?

A That was common knowledge that the Estonian Division was an SS division.

Q So they knew you had been in the SS?

A Oh, yes.

Q They knew you had been in the Waffen SS?

A Oh, yes; that's right.

Q Now, they took your passport from you, this false passport?

A Yes.

Q And you now admitted that that was a false passport?

A Yes.

Q You told them that was what, stolen?

A I told them I had stolen it.

Q You gave the name of Eerik Hein?

A Yes.

Q A false name?

A Yes.

Q And you gave an address of an empty lot in Tartu?

A Yes.

Q And you told them you had been in the Waffen SS?

A Yes.

Q And in the Estonian unit?

A Yes.

Q Of the German Army?

A Yes.

Q And then, they stopped beating you?

A No. They said they didn't believe me, and I got some more blows there several times. How many times they beat me, I don't know.

Q Well, then, what happened?

A Then I was, at the end of that interrogation, I was taken back to that box.

Q They stopped beating you after you finished this story?

A Oh, yes.

Q Go ahead. What happened to you then?

A Then I was in that box approximately, I don't remember exactly.

Q They put you back in the box?

A Yes. I was there about two weeks.

Q You were in the box two weeks?

A Yes; and during that two weeks, I believe, about ten times I was interrogated.

Q How long each time?

A Almost all night or half the night; six hours, four hours.

Q Let's put it this way:

What was the shortest period you were interrogated and what was the longest period you were interrogated?

A Maybe two or three hours was the shortest.

Q And then, the longest?

A All right.

Q About 12 hours?

A Yes, about that.

Q All right.

Now, they kept interrogating you presumably because they didn't believe your story?



A Yes.

Q Did they fingerprint you?

A During this time they fingerprinted and photographed me.

Q With your clothes off or your clothes on?

A With my clothes on.

Q Go ahead.

A And then by the end of that two-week period, that was very, very difficult to say, you know, because there is no knowing of time.

Q No?

A No light comes in and so on, but maybe about after ten days or so I had admitted who I really am.

Q Up until that time -- let me make sure I understood you -- there had been three men interrogating you?

A Yes.

Q The same three men all the time?

A Different men.

Q Different men?

A Only the main man that questioned me, he was the same.

Q The leader that you mentioned in the beginning, the Russian?

A Yes.

Q And he had different people helping him all the time?

A Yes; sometimes one; sometimes two.

Q And you estimate that before you finally broke down, they had interrogated you what, ten times, would you say?

A Yes; eight or ten times.

Q On separate occasions?

A Yes.

Q And in between times they always put you back in this box?

A Yes.

Q You never got to lie down at any time during this period?

A No. And there is one thing more, when they weren't satisfied with me, then in the anteroom I think there is another type of box there, and they put you inside that, and you have to stay there right at attention like so (indicating), it's so narrow.

Q That is pretty much like the box you described before?

A There is a little elbow room there.

Q In the first box you described, you could move your elbows out?

A Yes.

Q But in the second box you had to keep them straight at your side?

A Yes; they put you in there.

Q But they didn't have any box where you could lie down?

A No.

Q And did they continue to feed you just bread and water?

A Yes.

Q During the entire period of two weeks?

A Yes.

Q And during this time I want you to describe for me completely, Mr. Heine, the beating or torture or whatever it was that was used on you during this period?

A In these interrogations they used mostly fists, a blow on the head or on the face.

"Why don't you speak the truth, you damn dog?" and so on.

Q Did they break any bones?

A No.

Q Did they leave any permanent disfigurements?

A No.

Q Did they knock out any teeth?

A No.

Q Did they use electricity on your testicles?

A No.

Q Did they beat your private parts at all?

A No.

Q When you say they beat you "mostly about the head with their fists," what else did they do? Do you mean that was all they did?

A Yes; physically it was all, yes.

Q Physically -- I just want to make sure we have this straight now -- physically they beat you with their fists about the head?

A Yes.

Q Is that correct?

A Yes.

Q And that is the extent of what they did to you physically?

A Yes.

Q Now, when you say "physically," I assume that you mean -- mentally they were what, shouting at you?

A No; mentally when they put me in that very narrow box, that was that kind where you're about one hour or two, and then the air didn't reach out any more.

Q They didn't have holes in the box?

A No air at this time, and you had the feeling as if you were going to suffocate and die.

Q And how long did you stay in that box, the narrow one?

A The narrow one over two hours. Nobody didn't come to let me out. I blacked out.

Q Nobody opened it?

A Pardon?

Q They didn't open it for two hours, is that what you said?

A They opened it when you blacked out, and then they took you out and revived you, waked you up, and began the interrogation.

Q Now, at the end of about ten days you said you finally confessed?

A Because they brought to my attention some papers I had signed before, in 1942.

Q What papers were these?

A These were the interrogation papers of people I

had interrogated at this time.

Q Oh, when you had been a member of the political police?

A Yes; political police, yes.

Q When you were in that German group, I believe you said you had been in civilian clothes, hadn't you?

A Yes.

Q Had you been issued uniforms which you did not wear?

A Oh, yes.

Q You had been issued uniforms?

A Civilian. These uniforms what we had were taken away, and we were issued civilian clothes.

Q When you were in the what I think you called --

A Political police --

Q -- political police, you wore civilian clothes?

A Yes.

Q Were you issued a uniform which you did not wear?

A No.

Q Did you have an identification card at that time?

A What?

Q Identification card as a member of the police?

A Yes.

Q All right.

Were you a member of the S. D. at that period?

A No.

Q You were never a member of the S. D.?

A No.

Q Never in your life?

A Never.

Q What papers did they show to you from that prior period?

A One was of the paper when I interrogated one former Minister of the Soviet Estonian Republic, Mr. Ruus.

Q Mr. Heine, when you were in the political police, you were using your real name, weren't you?

A Yes.

Q So they knew who you were if they were showing you who these papers came from?

A Yes.

Q They now knew you were Eerik Heine?

A They showed me that, and they told me on, "Is that your signature?" They let me sign, too, on paper, my signature.

Q But your signature was Eerik Heine?

A Yes.

A That is what I said.

Q So at this point when the Russians showed you this piece of paper which showed your interrogation as a member of the political police, they knew that you were Eerik Heine?

A Yes; they knew then.

Q All right.

They showed you this piece of paper and asked you to identify your signature?

A Yes.

Q And you did?

A Then I told them yes, I am that person.

Q This piece of paper related to a Mr. what?

A Mr. Ruus.

Q Have you spoken of him before?

A Yes.

Q He was the man -- I remember now.

Is that the only sheet of paper they showed you?

A There was another one, too, but I don't remember whose paper that was.

Q It related to another man?

A Yes.

Q This piece of paper about Mr. Ruus, what had it been, at your direction that he be executed or something of



that kind?

A No.

Q What was it?

A Only interrogation, what I have asked from Mr. Ruus.

Q It was a description of your interrogation and his answers?

A Yes.

Q All right.

Q So what happened then? They now know who you are?

A Yes.

Q What happened?

A When I was down in that box, then I presumed any minute that sooner or later they get my real identity, and I was sure that I would be shot anyway, but --

Q On a number of counts?

A Oh, yes. And I wanted to go; this way I don't stick nobody with me; and I decided let it cost what it costs, but I don't tell them about my guerrilla activities with whom I have been in connection, who have helped me and others, and who were my friends during this period.

And I planned to tell all the other things about the political police and the army, but I decided, too, that

that period when I was a guerrilla, to delete it, cost what it cost.

Q Well, I am now trying to get what happened to you.

You said you decided when you were in the box that you would tell them about everything except the guerrilla activities?

A Yes. I admitted that I am Erik Heine, and then I began to tell them --

Q About your guerrilla activities?

A No.

Q About yourself except for your guerrilla activities?

A Yes. One other exception too. I didn't tell them I was repatriated to Germany. I didn't tell them because I was afraid, because with Germans -- I was afraid that they handled Germans much more harshly than with Estonians.

Q They knew you had been transferred to Germany because you were an SS officer?

A I didn't tell them that.

Q They didn't know you were in the SS?

A Yes.

Q How did they think you had gotten into the SS?

A I said to them, I volunteered.

Q You volunteered?

A Yes.

MR. RASKAUSKAS: I think the witness just stated that he did not tell them that he had been repatriated to Germany through his parents when he was first arrested as a schoolboy; that part he left out.

MR. STANFORD: The fact he was an officer. He previously stated that he was an officer; he was in the Waffen SS.

BY MR. PRETTYMAN:

Q Let's get it cleared up; what you did not tell them.

I take it you told them about your life except for your guerrilla activities?

A Yes.

Q Your friends who were guerrillas?

A Yes.

Q The fact that you had been repatriated to Germany?

A Yes.

Q You did not tell them that you were an officer in the SS, but you did tell them that you were in the SS?

A No; I told them I was an officer.

Q You told them you were an officer in the SS?

A Yes.

Q But you said you had volunteered for that job?

A Yes.

Q What else didn't you tell them?

A I believe two things what I didn't tell them.

Q You told them you escaped from the prison camp, for example, in Siberia?

A No; I didn't tell them that, too.

Q And did you tell them about this trip to Siberia to bring your friends back?

A No.

Q Did you tell them about escaping out of the prison north of Tallinn?

A That is a very funny thing. When I told them that I escaped from that prison, they didn't believe me because as it came out later these officials of the prison camp already made such a paper that I was released to cover so that it didn't show them in a bad light.

Q The prison officials were embarrassed about your departure?

A Yes.

Q So they put in the record you were released?

A I told them that I escaped, and they didn't believe me.

Q I am trying to get what actually happened.

You say what actually happened was that the prison officials had been embarrassed about your escape?

A Yes.

Q And, therefore, they put into the prison records that you had been released?

A Yes.

Q The prison records showed that you had been released from that prison?

A Yes. The NKVD officials at first didn't believe me; they even showed me a paper that I am released, not escaped.

Q You told them you were in the prison at Kisel.

What was the Russian prison camp over in Western Russia here that you were in?

A Kisel.

Q You told them you were in that camp?

A Yes.

Q And you told them you were in the camp near Leningrad?

A Yes.

Q How did you tell them you got from Kisel to Leningrad?

A That I was transferred.

Q That you were officially transferred?

A Yes.

Q And did the records show that you had been transferred from Kisel to Leningrad?

A I don't know that.

Q But you told them you had been officially transferred?

A Yes.

Q Why did you say you had been transferred?

A (No response).

Q I guess you didn't know, did you?

A I think my intention was to look as innocent as possible in every way, in every incident. That thing, that only made my fate more severe.

Q So you told them you had been transferred?

A Yes.

Q By prison authorities from Kisel to Leningrad?

A Yes.

Q Did you tell them you had been temporarily captured at Viljandi?

A Yes.

Q You told them about that incident?

A Yes.

Q How did you explain the period between July of 1946 and July of 1950, a period of four years?

A I think that first date is June.

Q You escaped in June?

A Yes.

Q In '46?

A Yes.

Q Until July of 1950?

A Yes.

Q Four years. What did you tell them about those four years?

A These gold coins what I had with me --

Q You still had those on you?

A No. They were taken away, right away at that songfest.

Q They were on you when you were captured?

A Yes. And I found out the story that my father, they knew that my father was a very rich man there and had much gold and so on, and before they escaped again to Germany in '44, they buried these coins in the ground where I lived, and when I escaped from that prisoner of war camp by Tallinn, I went there and dug them out and lived throughout these years

speculating and selling these things, and that was my way of living, speculating.

Q They knew that your father had been wealthy?

A Yes.

Q They knew that he was a piano company owner?

A Yes.

Q And where did you tell them you had lived during these four years?

A I told them in hotels.

Q Hotels, where?

A In towns everywhere, all over.

Q Did you give them the names of the towns?

A Yes.

Q What towns did you give them?

A Almost all what I knew.

Q Let me get this straight:

You told them that you spent four years going from hotel to hotel in various towns around Estonia?

A Yes.

Q What else did you tell them?

A That was all about this period, but they didn't believe me at first because they asked me, "What gold coins?" Then I told them I had about 12 or more gold coins with me, but--



Q When you were arrested?

A Yes, but the record didn't show that. Then they probably thought it was the case, and then they investigated and then they found that somebody who had arrested me had stolen them, and they produced these gold coins.

Q Did they tell you that? Did they tell you that the man that had arrested you had stolen the coins?

A No, they didn't tell me that. I believe that in the beginning they didn't believe I had gold coins at all. There was a record of the things that I had, my passport and wallet, and so forth, and there wasn't anything about gold coins.

Q And later they told you they did believe you?

A Yes. They produced these very gold coins.

Q And so you surmised that the person who had arrested you had stolen them?

A Yes.

Q What else did you tell them?

A That I was in the army.

Q You told them, I guess, about the flag incident since they knew who you were and knew where you were from?

A No, I did not tell that. I told that because of some hooliganisms when the demonstrations were there then I said

anti or bad words to these people who demonstrated there, and I was arrested but released after interrogation.

Q How did you explain your first arrest, incidentally, back in August of 1940, after the flag incident? Was that your first arrest?

A Yes.

Q You never had been arrested before?

A No.

Q By anybody?

A No.

Q After the flag incident you remember you went to other cities, and you came back to your home, and the police picked you up there?

A Yes.

Q That was the first time you had ever been arrested?

A Yes.

Q How did you explain that arrest?

A How?

Q You were now in Russian hands in 1950, and you are trying to explain your past?

A Yes.

Q How did you explain the fact that you were arrested in August of 1940?

A I told only that I was arrested once, and that was for hooliganism.

Q You told them that back in August of 1940 you were arrested by the NKVD because of hooliganism?

A Yes.

Q What did you mean by that?

A Shouting bad words.

Q At the Russians?

A Yes.

Q And they didn't know about the flag incident?

A No.

Q Did they know about the little pennants that you had given away?

A No.

Q You told them that you were a prisoner for hooliganism --

A I was interrogated and released.

Q -- for seven and a half months?

A No. I said only a couple of hours; I was interrogated and released.

Q You didn't tell them about being in their hands for some seven months?

A Not this time.

Q And you didn't tell them about going to Germany in April 1941?

A Yes.

Q "Yes" or "No"?

A No.

Q You did not tell them about that?

A No.

Q What did you tell them you did between September of 1940 and February of 1942?

A I was a schoolboy.

Q You were a schoolboy?

A Yes.

Q In Tartu?

A Yes.

Q And then in February of 1942 you told them, I suppose, that you had become a member of the political police in Tartu?

A Yes; that I told them.

Q When did you tell them that you became a member of the SS?

A When the German Army came in and drove the Russians out, then I volunteered in Germany.

Q But you didn't go to Germany?

A No.

Q You became a member of the SS in Estonian?

MR. STANFORD: You mean he didn't tell them that he had gone to Germany; is that right?

MR. PRETTYMAN: That's right.

THE WITNESS: I told them, too, that I was in Dybzeke training camp, and I went.

Q What training camp?

A Training camp for Estonian Legion.

Q Where?

Q In Dybzeke in Poland.

Q You told them you went to Poland?

A Yes.

Q I thought you said you were a schoolboy all during the time?

A I told them when I went exactly.

Q When did you tell them that you stopped being a schoolboy and went to Poland?

A I believe it was when this Estonian Legion was formed.

Q When was that?

MR. RASKAUSKAS: I object to the question. I believe that the witness has stated that he went from being a

schoolboy --

MR. PRETTYMAN: Wait a minute, Mr. Raskauskas.

We are not talking about what he did; we are talking about an entirely different matter. We are talking about what he told the Russians he did.

MR. RASKAUSKAS: I object to the form of your present question where you said, "What did you tell them that you did?"

MR. PRETTYMAN: I will rephrase the question.

BY MR. PRETTYMAN:

Q Mr. Heine, --

MR. RASKAUSKAS: I would like to get my objection on the record, if I may, Mr. Prettyman.

You suggested that he went from being a schoolboy to the German officer camp, and he didn't testify as to that.

That is the objection I want to get on the record.

BY MR. PRETTYMAN:

Q I ask you, what did you tell the Russians, your captors, about what happened to you after you stopped being a schoolboy?

A I believe then the first thing I said, I went to that Estonian political police.

Q And that was in February of 1942?

A Yes.

Q Then I will come back to my original question:  
When did you tell them that you became a member  
of the SS?

A When I went to enter the Estonian Legion.

Q Look, Mr. Heine, you and I are not communicating,  
and I am not trying to put words in your mouth, I am trying  
to get your meaning, you understand that?

A Yes, I understand that.

Q You first said that you told the Russians that  
from the time of your arrest and almost immediate release in  
August of 1940 -- are you with me now? -- do you remember  
you were picked up after the flag incident but you didn't  
tell them about the flag incident, you said you were a hooli-  
gan?

A Yes.

Q And they arrested you and released you very  
quickly; that was August of 1940; am I correct?

A Yes.

Q Now, going over it again:

You became a member of the political police in  
February of 1942?

A Yes.

Q And you told them about that?

A Yes.

Q What I am trying to do is to have you tell me how you accounted for the time between August of 1940 and February of 1942.

A That I was a schoolboy.

Q The whole time?

A Yes.

Q That's what I thought you said.

A Yes.

Q Isn't that what you said?

A Yes.

Q And that is what you are saying now.

Then, when did you tell them that you became a member of the SS?

A As it really happened, in August '42.

Q In August '42?

A Yes.

Q You were not a member of the SS before August of 1942

A Yes.

Q And during the entire time, for example, all of 1941, you did not say you were in the German Army or anything?



A In the Germany? Yes, I didn't tell them that.

Q You were simply a schoolboy in Tartu?

A Yes. I tried to evade that, yes.

Q So you have brought us up the political police.

Did you tell them that while being a member of the political police that you had interrogated pro-Soviet Estonians?

A They had these documents there. I didn't say anything else.

Q They knew what the German Political Police were, didn't they?

A Yes.

Q And they knew what the job entailed?

A Yes.

Q They knew you had interrogated people?

A Exactly.

Q Who were pro-Russian?

A Yes; exactly.

Q You told them what, that you were a member of the political police in August 1942?

A Yes.

Q And then, what happened? What did you tell them happened in August of 1942?

A I told them I was mobilized to Estonian Legion.

Q And that you served there how long?

A Until I was captured in '44.

Q That you were in the Estonian Legion?

A All that story is as it happened.

Q You told them you never went to Germany?

A In that officers' academy; I told them.

Q Did you tell them you were in Bad Eolitz?

A Yes.

Q And that you became a second lieutenant in the  
Waffen SS?

A Yes.

Q Did you tell them you were in the fighting at Narva?

A Yes.

Q And you told them you were captured by the Russians  
in August of 1944?

A Yes.

Q You told them about the various camps that you  
had been transferred to?

A Yes.

Q You told them about your escape in March of '45?

A Yes.

Q And that then captured again what, in April?

A '45, in Russia?

Q Yes.

A I didn't say that I escaped from Kisel.

Q I am talking about March of 1945.

MR. RASKAUSKAS: Can you better identify that for him?

MR. PRETTYMAN: No, I'm not identifying anything. I was trying to help him by giving him the dates.

MR. RASKAUSKAS: You asked him about a particular escape in March '45. It should be identified for the record from where that was.

MR. PRETTYMAN: Mr. Raskauskas, this is his life, not mine. I don't have to identify what happened in March 1945.

If you want me to do it that way, I will ask you for everything you told them.

THE WITNESS: March '45? No; I didn't tell that.

BY MR. PRETTYMAN:

Q You didn't tell what?

A That I escaped from Kisel.

Q In March 1945?

A Yes.

Q You didn't tell them that?

A That's right.

Q What did you tell them after that, where you were after March 1945?

A I was transferred.

Q When?

A About at this time.

Q What time?

A In March. Let's say it was in March.

Q Of 1945?

A Yes.

Q From Kisel to Leningrad?

A Yes.

Q And that you were at Leningrad for how long?

A Until we were transferred to Estonia.

Q Which was when?

A New Year's Eve '45.

Q And then you said -- did you tell them that you were sent to Tallinn?

A Yes.

Q I think you have already told us what you said about getting out of Tallinn?

A Yes.

Q And how you identified your activities thereafter.

I think you have already told us about the years that you spent going from hotel to hotel?

A Yes.

Q You didn't tell anything about your guerrilla activities?

A Yes.

Q How did they take all this?

MR. RASKAUSKAS: I object to that question.

BY MR. PRETTYMAN:

Q What did they say to you? Did they seem to accept this story, or did they keep beating you?

A All that story, only these four years.

Q They didn't believe that?

A No.

Q What did they do?

A After about these two weeks I was transferred in another chamber where there were other people already, and I spent about -- it's very difficult to say, but about three months in that secret prison.

Q You were sent to a prison?

A It was in the same place.

Q In Tallinn?

A That was the same place where I was brought originally, where I first was interrogated.

Q And were you there with other prisoners?

A After two weeks, yes.

Q You were by yourself for two weeks?

A Yes.

Q In a cell?

A In a box.

Q You spent two weeks in a box?

A Yes.

Q And then you were transferred to what?

A To the basement. There were many prison cells.

Q You were put in one of those?

A Yes.

Q With other prisoners?

A Yes.

Q How many?

A There were about 14.

Q Were they Estonians?

A Yes.

Q Did you know any of them?

A I remembered from this period very fine person was  
a Reverend <sup>Kuljus</sup> Luljus.

Q What is his first name?

A I don't know.

Q Have you ever seen him since?

A No.

Q Did you ever hear what happened to him?

A He was sent to Russia, and is now back.

Q Back where?

A Estonia.

Q He was a minister?

A Yes.

Q What was he doing in jail?

A He was arrested because he had delivered a speech from the pulpit what was not --

Q Not the party line?

A Not the party line, against the Communists.

Q How long did you stay in that cell?

A Maybe a month and a half was all.

Q Did they interrogate you during that time?

A Yes.

Q What were they interrogating you about now? What did they want you to tell?

A These four years.

Q About your guerrilla activities?

A About did I really expect them to believe that I travelled around the country.

Q Did they torture you?

A Once only, physically.

Q What did they do?

A They took me into a large hall, and there was empty chairs around the walls, and the usual procedure is they roll you in the carpet on the floor; they roll you into the carpet so that behind -- what do you call it politely? -- so that your behind is exposed, and then beat on you.

Q I am not sure I get that picture.

They wrap you in a carpet so that your behind is exposed?

A So that the cries are not heard.

Q I see. They put the carpet around the top part of your body?

A Yes.

Q And they leave the bottom part of your body uncovered?

A Yes.

Q And they beat you only on the behind not the front?

A Yes; on the behind.

Q Mr. Heine, they were serious about getting this



information, I assume?

A Very serious.

Q This was informationn which they very much wanted to have?

A Yes.

Q They thought that perhaps you had information about guerrilla activities?

A Maybe. I don't know what they wanted, but I presumed they didn't believe that story what I did tell them.

Q Let me put it to you differently:

What questions were they asking you? Were they seeking to find out the names of guerrillas, for example?

A No.

Q All they were asking you was, what were you doing during these four years?

A Yes.

Q But there was no doubt in your mind at this time that this was a very serious business where they definitely wanted this information?

A Yes.

Q What did they do then? You didn't give them that information, did you?

A No; never.

Q You didn't change your story?

A Never.

Q What happened at the end of that time? That was the only time they beat you during the month and a half?

A Physically, yes; but then I was in that inner prison or secret prison about three months.

Q That brings us to when?

A About the end of August or so, or the beginning of September.

Q Of 1950?

A Yes.

Q And when they see, I presume, that beating doesn't help then they made other arrangements to break me down. For example, I was 18 days, about 15 or 18 days in a box, you know.

Q The same type of box you had been in before?

A Very, very narrow.

Q A narrow box?

A In my underclothes.

Q Did this box have holes in it?

A Yes, it had holes; yes, but it was very, very chilly and you had to stay there until you lost consciousness, and then they took you out. And by this time again interrogation

and then again back again into the box. And, for example, they had that method when some man in a chamber -- there were many people who don't please these interrogators -- then they shut off the air, and that air is pumped in like here in the United States and Canada, there are these hot-air ducts in the basement, and then they shut off that air maybe for an hour or two, and we were like fish on dry land.

Q You say "we." Were there others in the boxes with you?

A No. I told you in these chambers.

Q This air business occurred in the chambers?

A Yes. And, they tried to keep us many days and nights awake so that we become exhausted.

For example, all night was that interrogation, and then you were brought back and the guards were given the duty to look at you during the daytime to see you don't sleep, and when the evening came they took you again to the interrogation, and then again down and so on.

It was that method by this time.

Q Did you know anybody else in this group besides the minister whose name you have already given us?

A Yes; one young fellow, and he was originally from that town where I am from.

Q You mean from Tartu?

A It was a young fellow called Brandt.

Q You had known him from your schoolboy days?

A Yes, I remember him. He was not in my school, but in another school, but in the same town.

Q And had you seen him between 1940 and 1950?

A Yes.

Q And have you ever seen him since?

A No.

Q Do you know what has become of him?

A No, I don't.

Q You don't know whether he is alive or dead?

A No, I don't.

Q Now, at the end of this three-month period -- this went on, I believe you said, for three months?

A Yes.

Q At the end of this three-month period, how many times during that three months would you say you were interrogated? How many occasions?

A About 20, I believe.

Q And again what was the range in hours when they would do this to you?

A All night, a couple of nights, a couple of hours.

Incidentally, I don't remember on what day it was, but I was put for sure -- I was already there with other prisoners -- I was put eye-to-eye with my school director, principal.

Q What did he say about you?

A He told about me, that I was his pupil, and that --

Q Let me get his name again. Do you have that name, or do you remember it?

A Yes. Kanstantin Treffner.

Q Was he a prisoner himself?

A No.

Q He was brought into the cell?

A To identify me.

Q And did he?

A He was brought into the cell.

Q Did he identify you?

A Yes.

Q What did he tell about you?

A That he remembers me as his pupil.

Q What was the purpose of that?

MR. RASKAUSKAS: I object.

THE WITNESS: I don't know that.

BY MR. PRETTYMAN:

Q Is that all he told them?

A Yes.

Q What happened next?

A It was, I think, at the end of these three months I was taken to interrogation again, and then they told me, "You are sentenced to death."

Q During this period and right up until the time they said you were sentenced to death, you had not changed your story about those four years?

A No.

Q And even after your principal identified you, that did not change your story?

A No.

Q Tell us about that sentencing. Who told you about that? Was that a court or was that a single man, or what happened?

A Through all these years I have never had a court appearance or some regular court or nothing. The same interrogator told me that I have been sentenced to death, and I am being sent to the death cells.

Q And what did he say you had been sentenced to death for?

A These political police activities.

Q It was your activities as a member of the political police --

A Yes.

Q -- in Estonia; that was the reason for your sentence to death?

A Yes.

Q What happened?

A Then I was taken out of that secret prison, and taken to the central prison in Tallinn. And, there are special-- how can we call it? -- death rows, where prisoners are waiting when they are taken out and shot, and I was there about two months.

Q Did they interrogate you during that two months?

A No. And, by this time I got an idea that to get out of that eminent threat, I tried to make myself a German citizen, and then all that I did as a political police assistant in the army and so on was not legal business; maybe that helps to save me.

Q They were shooting Germans at this time, weren't they, Mr. Heine?

A Not any more.

Q They weren't shooting any Germans now?

A No. Not at this time, no. That time was calm, I

presume.

Q They were shooting Estonians who had been members of the political police?

A Political police and members of the army units, they hated very much and so forth.

Q Like the SS?

A The Narva Battalion, that was the most-hated battalion in the eyes of the Russians when --

Q They weren't shooting Germans who had taken part in the same activities?

A No.

Q Go ahead.

Q Then I tried to contact the authorities, and at least after three or four -- they gave you once a week a paper to write your wishes or your pleas for amnesty or whatever you had in mind, and I tried to get a new trial.

Q You hadn't had a trial yet, had you?

A No; never. To make that record clear, I was -- that comes afterwards -- I was sentenced not through trial, but there is in the Soviet Union a special commission called Osabhoe; no trials.

Q You said you were named by this Russian commission?



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A Yes.

Q Had you been before the Russian commission?

A No. They don't take you before that commission; that is in Moscow. That is special commission, and they only notify that you are sentenced to death, and that is all.

Q Did this commission notify you that you were sentenced to death?

A No; that interrogator told me.

Q How did you know about this commission?

A Afterwards when my death sentenced was changed to 25 years, then when I was called out to that corridor.

Q Let's wait until we get to that.

Let's take it up in order.

A Yes.

Q You had this piece of paper, and you were going to ask for what?

A For re-hearing of my story.

Q All right. Go ahead.

A And after two or three times, two or three weeks --

Q What grounds were you giving for a re-hearing?

A That I have not told everything.

Q That you still had a story to tell?

A Yes.

Q Did you tell them in the paper what story it was that you were going to tell?

A No.

Q You just said that you had something that you could still tell to them?

A Yes.

Q All right.

A Then one day I was called out, and then I told them that I am a German citizen and I was repatriated in 1941 and I became a German citizen in Germany.

Q This was the first time you told them about your repatriation?

A Then, yes. They didn't believe that at first.

Q Where did you tell them you were from in Germany?

A No. That story that I was born in Estonia in Tartu, that was all as it was, but that I was --

Q That your grandmother was German?

A My grandmother was German, yes.

Q Is that what you told them?

A No.

Q Why did you tell them you were repatriated to Germany?

A Actually, I was repatriated.

Q Mr. Heine, back in 1941 --

A Yes.

Q -- in actual point of fact according to your story, as I understood it, you were in Russian hands?

A Yes.

Q A prisoner?

A Yes.

Q You were allowed to leave for Germany; is that correct?

A Yes.

Q You were allowed to leave because you had a German grandmother and your parents were trying to get you sent back; is that right?

A Get out, yes.

Q From a prison?

A Yes.

Q So the Germans, because you had this German grandmother, you had this linkage I believe as we said with Germany, allowed you to be sent back to Germany; not back to, but for the first time?

A Yes.

Q Now, this is the story that you now told the

Russians?

A Yes.

Q You told them just what I have just said, that you had this German grandmother; is that correct?

A Yes, that was all.

Q That was the story that you told them; that was something new that you had to tell them that you hadn't told them before?

A Yes.

Q What happened?

A They didn't believe that at first, but I was taken back to my death row there, and I waited there maybe two weeks, and I was called in about two weeks I believe, and I was called and then they began questioning me more thoroughly.

Q Were they beating you at this time?

A No.

Q Just asking you questions?

A Yes.

Q What did they ask you?

A "Why you were arrested," and "Where were you," in which prison, and so on; and, "From where did you repatriate?"

Q Were they asking you about your whole life story at

this time, or only about the period immediately before the time you were allowed to leave for Germany?

A From '40 and then '41; yes.

Q That is the period they were interested in?

A Yes.

Q They asked you all about what you had been doing and so forth?

A Yes.

Q Did you tell them now you had been in a Russian prison?

A Yes.

Q From August of 1940 until April of 1941?

A Yes; I told them.

Q You admitted now that you had been in a Russian prison all that time?

A Yes.

Q You didn't tell them you had been in a Russian prison all that time because you were a hooligan?

A No.

Q You told them why you had been in the Russian prison, that you had torn down the flag?

A Yes.

Q You told them the whole story?

A Yes.

Q Then, what happened?

A Then, it lasted maybe one day, and I was taken out from that death row and put into ordinary chambers in that central prison and I spent there, I believe, until April, March or April, I don't really remember.

Q March or April of what?

A '51.

Q Now, during the period from September of 1950, I think that was the last date you mentioned at the end of the three-month period?

A Yes.

Q That was around September of 1950?

A Yes.

Q And from then until March or April of 1951 --

A Yes.

Q -- you remained in the same place in Tallinn?

A After September I was in a death row.

Q That was in Tallinn, though?

A Yes, in Tallinn.

Q And you were taken out of death row when?

A It must have been in December.

Q And where were you put?

A Into ordinary prison chambers.

Q With other people?

A Yes.

Q And this minister, was he there?

A No.

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Q. Did you know anybody in the prison cell at the time?

A. I tried to remember his name there. Sometimes I remember.

Q. There were people in the cell that you recognized?

A. Oh, yes.

Q. How many would you say?

A. Two or three.

Q. Two or three?

If those names come to you, would you interrupt me and tell me, Mr. Heine?

A. Oh, yes.

Q. How long did you stay in that cell with that group?

A. You have to know that they change very, very often. They would go in another cell in a month or two. I was changed maybe two or three times.

Q. Do you know what the reason for that was?

A. We presumed that that reason is to hinder that close friendship develops among the prisoners.

Q. You mean not to let a close friendship develop?

A. Yes.

Q. But each of these cells were in the same place in Tallinn?



A. Yes.

Q. You were simply removed from one cell to another?

A. Yes.

Q. And that continued until when?

A. In March or April.

Q. March or April?

A. Yes, '51.

Q. And during that period when you were with these different friends, moved from cell to cell, you were not interrogated?

A. A couple of times.

Q. What did they want this time?

A. About that time the prison tell about going to Germany.

Q. And by now you had given them the full story?

A. Yes.

Q. And what happened in March or April?

A. I was called to corridor and they told me that by order of Osaboe that --

Q. Why don't we just say the Russian Commission this time, because I think that name is on the record.

A. Yes, that I was sentenced to twenty-five years of forced labor.

Q. Did they say why?

A. For anti-Soviet activities.

Q. No, did they say why your sentence had been commuted from life to twenty-five years?

A. No, they didn't say that.

Q. Did you ever find out?

A. No.

Q. Do you have a judgment as to why they did that?

MR. RASKAUSKAS: I object.

THE WITNESS: I believe that is because I could make them believe I am a German citizen and that was not so harsh. Why they did was --

BY MR. PRETTYMAN:

Q. Mr. Heine, you did not tell them you were a German citizen.

A. I told them but I am really not.

Q. I thought you said before that you told them your grandmother was German.

A. Yes.

Q. And you had been transferred to Russia because of that.

A. Yes, and that I got a German citizenship.

MR. CONNOLLY: You misspoke yourself. You meant

transferred to Germany, not to Russia.

MR. PRETTYMAN: Yes, transferred to Germany, not Russia.  
I am sorry.

BY MR. PRETTYMAN:

Q. And you told them that after you were allowed to leave Germany that you had applied for citizenship?

A. Yes.

Q. And you had it -- it had been granted?

A. Yes.

Q. And where did you say you had gotten your German citizenship?

A. I don't remember that. I said some town in --

Q. They asked you about that, I presume.

A. Yes.

Q. And you gave them the name of some German town?

A. Yes.

Q. Did they ask you for any documentation of that?

A. No.

Q. Did you have any?

A. No.

Q. All you know was they suddenly told you that your death sentence was commuted to twenty-five years?

MR. RASKAUSKAS: I object to that characterization.

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They didn't suddenly tell him. He didn't testify that there was anything sudden about it.

MR. PRETTYMAN: It was quite sudden, wasn't it, Mr. Heine?

MR. RASKAUSKAS: Well, I don't think counsel should continually characterize his testimony on the record. He did not say that.

BY MR. PRETTYMAN:

Q. What happened after you were told it was commuted?

A. I was taken from that chamber and put in -- how is it called, transit chamber, where prisoners --

Q. Transit chamber?

A. For prisoners taken out of Russia to other prisons and so on.

Q. Can you continue right on here, Mr. Heine? I will ask questions as you go, but you can go right on.

What happened then?

A. I was taken to another prison in Tallinn, to Lasnamae.

Q. Were you ever in Kopli Prison in Tallinn?

A. I landed there in Kopli, that train with what we came over Estonian border, that stopped at Kopli, and not far away from Kopli was the prisoner of war camp.

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Q. Was your prisoner of war camp called Kopli?

A. No.

Q. That was a different camp?

A. There was no camp.

Q. Oh, there was no camp at Kopli? All right. What happened next?

A. It was two weeks staying in this transit or from that prisoners were taken to Russia to labor camps. Two weeks I was taken, --

Q. Were there other Estonians in this transit camp with you or transit cell?

A. Yes, yes.

Q. Do you remember any of them?

A. No, I don't remember.

Q. Had they been sentenced to death and then had their sentences commuted?

A. No, most were twenty-five years.

Q. Go ahead.

A. I was taken out after two weeks from there, about two weeks, and prison went with this car -- I was taken to Tallinn station with other prisoners, about eight or ten, and to make that picture clear, sometimes whenever there were many prisoners waiting for deportation to prison camps

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they formed special trains, wagons, but when there were less than -- every passenger car in Russia has two or one specially outfitted prisoner car. They look outside like ordinary passenger cars, but the windows are --

Q. Barred?

A. Barred. And inside they are compartments like cages.

Q. Now even ordinary passenger trains had these special cars?

A. Yes, one or two.

Q. This is throughout Russia?

A. Throughout Russia.

Q. And do guards go with these special cars?

A. Yes.

Q. Where do guards stay, inside the regular part of the train?

A. Let's say this is the train here, and the cages are here, and this is a corridor where the cars --

Q. Corridor between the specially-built cars and regular passenger cars?

A. No, passenger cars -- that is inside.

Q. Oh, inside the specially-built cars is a special area for the guards?

A. Yes, a corridor where they go up and down.

Q. All right.

A. And with that car I was taken to Leningrad, into a prison called Krestnoi.

Q. How long did that trip take? You were put into this specially-built car into a cage?

A. Yes.

Q. How long did the trip from Tallinn to Leningrad take?

A. About a couple of days.

Q. Were you fed during this period?

A. Yes.

Q. What clothes did you have on now?

A. I had still my civilian clothes with what I was arrested.

Q. The same ones you had been arrested with?

A. Yes.

Q. What happened when you got to Leningrad?

A. That was big distribution prison from where -- that was the main point where the people were distributed all over Russia into slave labor prisons.

Q. Do you know the name of that prison?

A. Krestnoi. I gave the name.

Q. You were taken off the train and put in this prison?

A. Yes.

Q. How many prisoners would you say were in that camp?

A. You mean in that prison?

Q. Yes.

A. A couple of thousand I believe.

Q. How many Estonians?

A. In that camp or in that chamber where I went there were about fifty of them.

Q. Did you know any of those fifty?

A. Yes, one of my school friends.

Q. What was his name?

A. Heino Ambre.

Q. What was his crime?

A. He told me he had been -- not political police but ordinary police during the German occupation.

Q. Had you seen him during this time between 1940 and 1950?

A. I don't believe.

Q. Have you seen him since?

A. No.



Q. Do you know what happened to him?

A. No.

Q. You don't know whether he is dead or alive?

A. No.

Q. He was the only name you remember out of the fifty?

A. Yes.

Q. All right. You were put in this prison. And then what happened? How long did you stay there?

A. A month was all. And then I was taken to that special car again on another train to camp, prison, slave labor camp, in Arhangelsk, District of Arhangelek.

Q. Now in view of Mr. Raskauskas' objections this morning, I am going to let you find and describe this place the best you can.

MR. RASKAUSKAS: I object to that.

MR. PRETTYMAN: Why?

MR. RASKAUSKAS: I object to those comments on the record. We don't need those comments on the record. Let's ask this man some questions.

THE WITNESS: It must have been some place here.

BY MR. PRETTYMAN:

Q. And would you describe that?

MR. CONNOLLY: You are getting sleepy, Mr. Raskauskas.

MR. RASKAUSKAS: I am getting irritated. Let's ask him why he is a Communist, how or whether he knows Juri-Raus. Let's get on with the questions.

THE WITNESS: It is near here.

BY MR. PRETTYMAN:

Q. What is that?

A. Near here.

Q. Medvezhyegorsk.

In the vicinity of this city?

A. Yes.

Q. What was the name of that camp?

A. Samok, the best I can remember.

Q. Describe that place.

A. Four walls, out of --

Q. Walls or fences?

A. Walls, with barbed wire, every corner watchtowers--

Q. Now, is this different from this camp you described before, I take it?

A. Yes, yes.

Q. This was what, a stone wall or brick wall, or what?

A. No, wooden -- tightly--

Q. Wooden timbers?

A. Yes, timbers, timber walls, very high, about ten

feet.

Q. There were four of these, thickness of four of these? Did I misunderstand you?

MR. STANFORD: He meant a rectangle.

MR. PRETTYMAN: Oh, I see.

THE WITNESS: And there was barbed wire before that wall and behind that wall, between this timber wall and about ten feet until barbed wire was called death zone.

BY MR. PRETTYMAN:

Q. How long did you stay there?

A. A couple of months I believe.

Q. This would have brought us to about when, Mr. Heine?

A. July is all.

Q. July of 1951?

A. Yes.

Q. Were there Estonians in this prison?

A. No.

Q. You were the only Estonian in this prison?

A. Not Estonian. I was German now.

Q. Were there other Germans there?

A. Not there.

Q. You were the only German in the prison?

A. Yes.

Q. How many prisoners were there there?

A. Originally this contained 800 to 1,000 prisoners.

Q. What name were you using, Eerik Heine?

A. Yes, Eerik Heine.

Q. These other prisoners were what, what nationality?

A. Russians, Asiatic people --

Q. What was this particular camp designed for, any particular type of prison?

MR. RASKAUSKAS: I object.

THE WITNESS: We were made to work there.

BY MR. PRETTYMAN:

Q. Yes; did you in your discussion with other prisoners find that this prison was designed for political prisoners or former officers or for crimes against the state or any particular things?

A. They were all mixed up, political, criminals, rapists and very, very, very --

Q. And what did you do? What was your daily routine at this prison? What type of work were you engaged in?

A. It was cutting timber.

Q. Cutting trees?

A. Yes, cutting trees twelve hours a day.

And coming back and trying to get something to eat and trying to get sleep and again twelve hours a day, without holidays this time, nothing.

Q. Were you interrogated during this period?

A. No.

Q. Were you indoctrinated to Communist propoganda?

A. No.

Q. You didn't have the microphones on the wall?

A. Oh, yes, yes.

Q. You did?

A. Yes.

Q. What did you do this time?

A. As my habits had been, I began to make preparations for escape. I was caught trying to -- I was caught trying to make out a needle compass. I was spotted and probably reported, and in a couple of days I was shipped out from that camp.

Q. There were, presumably, informers?

A. Yes.

Q. How were you discovered?

A. Somebody must have been seeing me when I tried to magnetize that needle that I had.

Q. How were you magnetizing that needle?

A. You can make it different ways. You rub it --

Q. Against your suit?

MR. STANFORD: Cloth?

3 THE WITNESS: Cloth, yes. And you try to -- solvent and you try to find some copper and a piece of copper, tin or zinc tin, and then you put that in solvent they produce this -- this copper and zinc produce electricity and with fine wire you make that -- you make a coil around the needle, and when the electricity goes through that coil then it electrifies the needle and it makes the needle -- it magnetizes the needle. When you have some small container and when you try to find your directions, you would take a little bit water, rub that on your hand, that needle, so it is a little bit -- so it doesn't drop right away into water, and that needle, very carefully you have to put it on the water and it stays on the surface of the water and then it turns slowly north and south directions.

BY MR. PRETTYMAN:

Q. Mr. Heine, what was your plan for getting out of this prison?

A. By working on these -- cutting trees.

Q. Were you going to run away?

A. Yes, I planned to do that, yes.

Q. What did you need a compass for?

A. Direction.

Q. Don't you tell by the stars which way to go?

A. Every time there isn't stars there.

Q. You were going to run away during the day time?

A. Yes.

Q. And somebody saw you making this compass?

A. Probably, yes.

Q. And so they pounced on you?

A. Yes.

Q. What did they do to you?

A. I was shipped out of that camp.

Q. Where were you shipped?

MR. STANFORD: Could we have a break now?

MR. PRETTYMAN: Sure. We will take a break now.

(Short recess.)

MR. PRETTYMAN: Back on the record.

(Record read.)

BY MR. PRETTYMAN:

Q. I am trying to find out what date this was. Where are we now? We are in 1951 and you had just been shipped out of a camp. Do you remember what part of the year that was?

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A. Summer. I remember it was summer.

Q. Where were you sent?

A. By the river, Kama.

Q. Oh, you were sent all the way, or half way across Russia, here now?

Put your pencil about as close as you can get.

A. I don't remember the nearest town, but --

Q. In the vicinity of what? Do you want to spell that?

A. Maybe that is it. B-o-n-d-y-u-g.

It was by that River Kama that we were located.

Q. Now how did you get -- what was this other town here? I have lost it.

A. Here someplace.

Q. Here?

MR. STANFORD: Yes.

BY MR. PRETTYMAN:

Q. How did you get from Medvezhyegorsk?

A. First we went by train again.

Q. In one of these special cars?

A. Yes.

Q. How long did that trip take?

A. Oh, that took about a month or more.



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Q. And you spent the entire time in this special car?

A. Oh, yes.

Q. You didn't get out in cities in between?

A. No, not this time.

Q. Now this town, for the purposes of the record, is north of Kizel -- no, it is northwest of Kizel and north-east of Keroz, due north of Perm.

A. It was called this time Molotov.

Q. Molotov?

A. Yes.

Q. These are cities you had passed before?

A. Yes.

Q. Had you stopped at Keroz on your last trip?

MR. STANFORD: What do you mean by the "last trip"?

BY MR. PRETTYMAN:

Q. On your trip from Kizel to Leningrad you had gone through Keroz?

A. I went the outskirts of Keroz.

Q. You had been off the train and gone around the outskirts?

A. Yes.

Q. Now here you are at this camp, after a month's trip, near Bondyug?

A. I don't know. I don't know that this was city there, but --

Q. The city does not mean anything to you, but the city that you pointed to on the map was near there?

A. Near the River Kama.

Q. Why don't we call the prison near the River Kama, then?

A. Yes.

Q. Did that have a name?

A. These prison camps system in Russia is laid out that way. In every district there is a center and from that center are going out next stage of importance of prison camps. Every center has maybe five, six or ten next stage prison camps. And second stage prison camps, everyone has about ten or five to ten prison camps at the third stage which are called Kommandrovas.

Q. These prison camps in various stages -- is one stage of the prison camp, say a maximum security camp, whereas the second or third stage is less secure?

A. No.

Q. What is the difference between the first, second and third stages of prison camps?

A. As I understand that, when some area is taken for

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exploitation by prisoners, then first they form first camp, one camp, and that became the center, like these, going like radius of these other prison camps.

MR. STANFORD: You say rays, you mean rays like the sun?

MR. PRETTYMAN: Radius.

THE WITNESS: Like this prison camp. One and then the second one has like these and the third.

MR. RASKAUSKAS: Satellite camps?

BY MR. PRETTYMAN:

Q. What I am trying to get straight, Mr. Heine, is what is the difference, if any, between the severity of the centers or the difference in the crime or the difference in the prisoners in these various stages of camps?

A. There are none.

Q. It is just the second stage happened to be built after the first, or the second stage happened to be built after the third?

A. Yes, yes.

Q. All right. I think you were about to tell me whether the camp to which you were now sent had a name.

A. As I remember, it was Poval.

Q. How long did you stay there?

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A. Not in that camp. In that region I stayed --  
let's see, until '55.

Q. Oh, you stayed in this general region until 1955?

A. Yes.

Q. But not in the same camp?

A. No.

Q. Well, how long did you stay in this first camp?

A. About a year.

Q. During that year were you interrogated?

A. No.

Q. Were you beaten?

A. Yes, but that was by work, when you didn't work  
in good enough, then you would get the blows.

Q. What was the work?

A. Cutting trees.

Q. You were not beaten to get information from you?

A. No.

Q. You were beaten when you didn't work well enough?

A. Yes.

Q. Were you beaten some during this period?

A. Sometimes, yes.

Q. You were still dressed in the same clothes that  
you had left Tallinn in?

A. In the civilian clothes that was stolen from me in Leningrad.

Q. In Leningrad?

A. Yes.

Q. How did they steal your clothes?

A. When they put prisoners before they take them on these wagons, then they are together with criminals, all criminals and prisoners and all, and in that criminal world in Russia the most vicious and most -- I can't describe that -- human beings that I have ever seen. And it is usually true that political prisoners are mostly ordinary people, civil, and they don't expect or know how to cope with half animals, what those Russian criminals are, and usually when they are put together with political prisoners they look for better clothing or whether you have some food left or mostly they steal clothing.

Q. You didn't leave Tallinn with an extra set of clothes, did you?

A. No.

Q. Just the clothes off your back?

A. Yes.

Q. How did they steal the clothes off your back?

A. They pin you in one -- when they don't give you --

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Q. I am not talking about some general situation. I am asking you how they got the clothes off your back. What did they do?

A. They pinned me in the corner and they have razor blades between their fingers and they threatened me to slit my eyes when I don't give them these clothes.

Q. And this was inside the cell in Leningrad?

A. Yes.

Q. And they took off your clothes, took your clothes off of you?

A. Yes.

Q. There you were with no clothes?

A. They gave me their own.

Q. Pardon me?

A. The leader of this band gave me his own clothes, rags.

Q. Rags?

A. Yes.

Q. Torn pants and a torn shirt?

A. Yes.

Q. Any overcoat?

A. No.

Q. And your guards did not say anything about that?

A. They never do.

Q. So you are now in this prison next to the Kama River in these rags?

A. Yes.

Q. Did you leave town with any identification, passports or anything of that sort?

A. No.

Q. No papers at all?

A. No.

Q. No money?

A. Not at all.

Q. So that certainly this point, next to the Kama, you have absolutely nothing in your possession except these rags or the ragged clothes; is that right?

A. Correct.

Q. Now were there any Estonians in that prison at Kama?

A. Yes, I met some.

Q. Did you recognize any of them?

A. Oh, yes.

Q. Tell me who they were.

A. There was one Mr. Pensa. I recognized one Schidlovski and one Mr. Ervin Von Eulenburg -- only at that

camp you want?

Q. Yes.

A. These are, I think, all.

Q. You had seen these people somewhere before, had you?

A. No, never.

Q. You had not seen them before?

A. Never.

Q. What were their crimes?

A. Ervin Von Eulenburg was German Army officer, I believe.

Q. That was his crime?

A. Yes.

Q. That was enough?

A. Yes. I don't know nothing more about him.

Then there was Mr. Schidlovski, a young boy. He was born in South Africa, but when the war ended he was arrested somewhere in Poland and put 25 years, too.

Q. Was he an Estonian?

A. No, German.

Q. German?

A. And then there was one Mr. Pensa, he was an Estonian and he was there, too, because he was in German



Army.

Q. And they got 25 years for that crime, being in the German Army?

A. Yes.

Q. Had they been sentenced to death?

A. No.

Q. And have you ever seen them since?

A. With Mr. Schidlovski and Mr. Von Eulenberg, we crossed the border into West Germany.

Q. You mean 1956?

A. In 1956, in October, yes.

Q. Did these two gentlemen stay with you the entire time from 1951 to 1956?

A. Not entire time. I mentioned before, as in prison they don't want to keep people too long at a time together, to prevent close friendships developing, so that in this year, sometimes a year or two, we were together, and again we might meet and we were separated and again together, and so on.

Q. They remained in that general area that you did, in that general area near the Kama River?

A. Yes.

Q. First, how many prisoners were at this first prison

you went to, and then your estimate of how many prisons there were in all of these satellite camps in this particular area near the Kama?

A. In that prison I would say about eight hundred but in that area about forty thousand.

Q. Forty thousand?

A. Yes.

Q. And how many prisons would you say were in that particular satellite group?

A. About nine, I believe, eight or nine.

Q. Before you were finally released in 1956, had you been in all nine of them?

A. No.

Q. How many had you been in?

A. Maybe four is all, or three.

Q. Was there any pattern to your transfer from one to the other? Did they keep you a specific amount of time in each space?

A. No, not specifically, a year or more, but they changed you.

Q. Did they give you a reason for changing each time?

A. No, no.

Q. As they changed, did they take a group of you

together or did they do this singly?

A. A group, yes.

Q. Did you remain with the same group each time, or was that group broken up from time to time?

A. Broken up. At random they do it.

Q. I take it from that then that you were the only person who was in all four camps at precisely the same time each time; to put it another way, a group of you did not go to these same four camps at the same time?

A. All the time with me?

Q. Yes.

A. No, I don't remember that. Maybe, but I don't know.

Q. All right, how long did you stay in this first camp?

A. About a year, I believe.

Q. During that time did you try to escape?

A. No.

Q. Did you have any contact with your parents between 1950, between July of 1950 and October of 1956?

A. Not with my parents, but in '56 I began to get German Red Cross packages and cards, postcards, which

were allowed from West Germany, from some official in the German Red Cross.

Q. Were they sent by your parents?

A. No, not by my parents, but some official had taken an interest -- well, that was usual procedure, when nobody knew where their parents are, are they dead, or where they are. Then for humane reasons these men or women wrote to German prisoners of war who had no relatives known.

Q. How did they get your name?

A. In '56 I believe it was in winter, that young boy, Schidlovski, was one of the first who went away from that region. Anyway, rumor was that he was ready for -- going to his homeland in Germany, and I was very good friend -- we were good friends. I told him when he got in touch with any German official, then tell them that here is German prisoner of war named Erik Heine, inform them that some prisoner of war here.

Q. Your friend Schidlovski got out and went back to Germany in 1956?

A. We came together.

Q. Oh, but I asked you how -- you received these Red Cross packages while you were still in a Russian prison?

A. No, no, no. I go there and in '56 I began to

receive --

Q. You didn't get out in November '56, did you?

A. No, October '56 I got out.

Q. You got out in October of 1956?

A. Yes.

Q. Did you receive these Red Cross packages before or after you got out of Russia, or Russian hands?

A. Before.

Q. That is what I thought; you received these while you were in a Russian prison?

A. I was this time near Moscow.

Q. He knows how to spell that.

A. In Estonian we spell it another way than in English or German. It is Maskwa in Estonian.

Q. And you received the packages while you were in that prison?

A. Yes.

Q. I asked you how did they get your name, to send you this?

A. I told you that Schidlovski went before me in that camp and as I told him, when he came he has to try to, by himself or by friends who are going out of Russia, to remember that one named Heine is here too, one named Heine is

here.

Q. Yes, and what did he do?

A. He did that.

Q. He told his friend or told his friends to get you out?

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A. Yes, who went to Moscow -- were taken to a German passenger and they talked about me too, that I am in this region.

Q. Well, we will come to that shortly.

Now you have been in this camp, the first camp, near the Kama River now. Were you there for about a year?

A. About a year.

Q. And were there any incidents during this period, any attempts to escape, other than beating you occasionally for failing to work? Was there anything unusual about your experience there?

A. No.

Q. Did any prisoners come in the camp? Did any prisoners come in the camp that had not been there previously, that you recognized?

A. In the other camp.

Q. Then let's go to the second camp.

A. Yes.

Q. All of a sudden one day they transferred you to another camp?

A. Yes, they do that.

Q. And this was in the same group, around the Kama River?

A. Yes.

Q. In the first camp you were in, for a year, were there any infiltrators or informers in that camp, in that group?

A. Oh, yes, there were.

Q. Did you ever find out who any of them were?

A. Oh, yes, we found out.

Q. How did you find out?

A. There were -- mostly they were Russian criminals and then somebody -- especially these criminals, as I told you they were very vicious. They sometimes tried to bring in that camp self-made knives and even axes and so on, and a couple of times they thought that a person had whistled on them and they were killed. These men were killed.

Q. The informers -- rather, the people that the informers informed on were killed?

A. No, not these people, no. These informers were

killed.

Q. The informers were killed by the prisoners?

A. Yes.

Q. I see. When they were found out?

A. Yes.

Q. There were also political informers, that is, informers among the political prisoners?

A. We didn't find that, no.

Q. After you were transferred, now, was the second camp you were transferred to built exactly like the first one?

A. Exactly.

Q. The same appearance?

A. Yes.

Q. How did you live in this camp? Were there bunks or beds or did you sleep on the floor?

A. These were barracks out of blocks. In every barrack there were about 200 people. There are bunks, two stories high, along both walls, and then that is bunks where there is a corridor that are sometimes two, sometimes three stoves.

Q. What kind of stoves?

A. Sometimes they are built out of clay, but some-



times they are out of tin.

Q. This is a heating stove?

A. Yes.

Q. Not a cooking stove?

A. No, no, no.

Q. Anything else in the barracks?

A. I don't think so.

Q. All right. You were sent to this second camp?

A. Yes.

Q. Did you now see anybody that you had not seen before whom you recognized?

A. Oh, yes. I knew that man before, whom I met there.

Q. Which one was that?

A. Mr. Brett.

Q. Where did you know him from?

A. I attended the same school in Estonia. He attended the same school in Estonia that I did.

Q. Tartu?

A. Yes.

Q. He was a school chum from your old days?

A. Yes.

Q. Had you seen him from 1950 or '51?

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A. No, I don't believe that, no.

Q. Have you ever seen him since?

A. I have not seen him since, but I am in correspondence with him.

Q. Oh, are you? What is his first name?

A. Karl.

Q. C-a-r-l?

A. K-a-r-l.

Q. Where does he live?

A. Germany.

Q. Do you have his address with you?

A. I will have to look.

(Looking in book) I am sorry, I don't have that with me. I have it at home.

Q. Well, at this point in the record, would you supply his address?

A. Yes.

Q. Do you remember now what city it was in Germany?

A. Munich, I believe.

Q. Munich?

A. Yes.

Q. And what was his sentence?

A. 25 years

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Q. And what was his crime?

A. I believe he was a German officer, too.

Q. He was German by birth?

A. No.

Q. Estonian?

A. Yes, but he came out the same way, as a German citizen.

Q. At the same time?

A. No, later.

Q. Had he been sentenced to death?

A. No.

Q. All right, how long were you in the second camp?

A. Maybe a year and a half.

Q. And was he in here during that entire period?

A. Yes.

Q. And was your job the same, cutting trees?

A. Yes.

Q. Did you try to escape?

A. No.

Q. Are there any other people in that second camp that you can remember?

A. There was a certain Mr. Karjaharm.

Q. Had you ever seen him before?

- A. No.
- Q. Have you seen him since?
- A. No.
- Q. Was he Estonian?
- A. Yes, he was an Estonian.
- Q. Anybody else?
- A. No, I don't remember any.

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Q. Were you interrogated or beaten during this period in the second prison?

A. No, I don't think so.

Q. And no propaganda aside from the -- did you have those machines on the wall still?

A. Oh, yes, there was.

Q. But did they give you any communist lectures? Did they try to indoctrinate you into the communist philosophy at this time?

A. Oh, yes, they did.

Q. How often did they do that?

A. Once a week.

Q. Was this a lecture?

A. A lecture, yes.

Q. Just a group of you?

A. No, all in the camp.

Q. Who gave that lecture, a MKVD Officer?

A. Oh, yes.

Q. In uniform?

A. Yes.

Q. How long did that lecture last each week?

A. We came home after work about 6:00 o'clock and one hour or two hours, that is 8:00 -- oh, until 12:00 or 1:00 o'clock in the night.

Q. You mean all afternoon and all evening?

A. From 8:00 until 12:00 or 1:00 o'clock say.

Q. 8:00 in the evening or morning?

A. In the evening.

Q. 8:00 o'clock in the evening until midnight or  
1:00 o'clock in the morning?

A. Yes.

Q. That happened once a week?

A. Yes.

Q. This was a regular feature?

A. Yes.

Q. In this particular group of satellite camps?

A. In all that we heard, all over these camps, all  
over Russia. That was their original procedure.

Q. Had you had that in the camp in Kizel?

A. No, no.

Q. You did not have it there?

A. No.

Q. Did you have it in camp at Leningrad?

A. No, no.

Q. Had you had it at the camp at that name I cannot  
pronounce?

A. Here you mean (pointing on map).

Q. Yes, near M-e-d-v-e-z-h-y-e-g-o-r-s-k.

A. No.

Q. You had not?

A. No.

Q. So this was the first time in your experience when you reached this group of satellite prisons near the Kama River where you began to have these indoctrination lectures?

A. Yes.

Q. But you had these once a week?

A. Yes.

Q. I take it you had no lectures from the summer around July or August of 1951 until October of 1956?

A. No, after the death of Stalin they ceased.

Q. When was that?

A. It was that day I remember all my life. I can say exactly when we first heard about that. It was the 5th of March 1953.

Q. Why does that date remain so strongly in your memory?

A. Because I was never so happy before in my life.

Q. You thought things were going to be different now that Stalin was gone?

A. Because Stalin was all the cause of my people had

suffered and I and all the world, that thing was dead now.

Q. You attributed what happened to your country to this man?

A. Yes.

Q. Then I take it that you had these indoctrination lectures from July or August of 1951 until March 1953?

A. Yes, about so.

Q. And then the lectures stopped?

A. Yes.

Q. No more communist lectures?

A. No.

Q. Did they stop immediately?

A. No, a week or two days. They tried to introduce these again but nobody went in to that.

You have to understand that after the death of Stalin, in about two or three months, much changed in these prison camps. It became a little bit easier to live there in prison camp, more food and better clothing and most important the viciousness of handling prisoners changed too a little bit.

Q. What was the purport of these lectures, Mr. Heine?

A. As far as I can remember -- most of the audience slept or dozed because day after day 12 hours a day of work



and after that you have to hear a lecture, my -- they tried to punish, to put in solitary, but that didn't help.

Q. Did you ever get put in solitary?

A. Yes.

Q. How many times?

A. Once.

Q. What was that for?

A. I refused to follow orders of the work leader.

Q. What did he want you to do?

A. To lift a block that I couldn't do and I gave him my mind.

Q. Told him what you thought of him?

A. Yes, and used bad words and so on.

Q. And how long did you stay in solitary?

A. About five days is all.

Q. The intent of these lectures presumably was to indoctrinate you with the communist philosophy?

A. They hoped that, yes.

Q. And to make you pro communist?

A. Oh, yes, they hoped that.

Q. You were in that second prison camp about a year and a half?

A. Yes.

Q. And then where did you go?

A. Then was I think the third and fourth.

Q. How long did you stay in the third camp?

A. Maybe a year or less. I don't know that exactly.

Q. Was that camp the same as the other?

A. Yes.

Q. Still cutting trees?

A. Yes.

Q. No interrogation?

A. No.

Q. No beating unless you refused to work?

A. That stopped after Stalin's death.

Q. That stopped after 1953 or in 1953?

A. Yes.

Q. Did you know anybody at the third camp?

A. I believe that I met again Mr. Schidlovski and  
Mr. Eulenberg, as I recollect.

Q. Anybody else?

A. No, I don't remember. I don't remember any.

Q. All right. And then for no reason you were  
transferred or at least no reason that was told to you, you  
were transferred to the fourth prison?

A. Yes.

Q. How far apart were these prisons?

A. About ten miles or ten kilometers or so.

Q. How would you get from one to the other?

A. On foot.

Q. You still have these torn clothes that you had gotten?

A. No.

Q. What had happened?

A. In that first camp, winter was near and they gave us winter clothing.

Q. Russian clothing?

A. Yes.

Q. Tell us about that.

A. They were cotton jackets and cotton pants and out of --

Q. What?

A. Shoes made out of car tires, yes.

And when it was cold in winter we got from there woven from tree bark -- I don't know how it is called, to wear, like shoes. One pair of underclothing, too.

Q. A hat?

A. In summer, yes, with --

Q. Visor?

A. Yes, and in winter you could protect your hair, winter cap, yes.

Q. Did you try to escape from the fourth camp?

A. No.

Q. There were no more propaganda lectures within a week or two after Stalin's death, in March, March 5, 1953?

A. Yes.

Q. And when did you leave that fourth camp?

A. I think I have been there only in these three or four camps, I believe.

Q. Yes, but after you got through the fourth camp, where did you go?

A. Oh, maybe a year or more.

Q. No, my question, Mr. Heine, is there came a time when you completed your tour at the fourth camp, your time within this group of satellite camps came to a close.

A. Oh, yes, yes.

Q. Then what happened? Let me ask you another question before we leave there.

Were prisoners in these four camps from time to time sent away entirely to other parts of Russia?

A. Oh, yes, oh, yes.

Q. And I think you mentioned that some were shot.

Did you say that some prisoners were shot during this period?

A. No, I didn't mention that. These criminals killed some informers, yes.

Q. Right. Were any prisoners at all in this group of satellite camps, as far as you know, taken out and you assume they were shot?

A. No.

Q. All right. What happened when your tour of duty, so to speak, came to an end in this group of satellite camps?

A. I was taken with other Germans too.

Q. When was this?

A. In a camp near Moscow.

Q. When was this?

A. That is, as I remember, I hope it is right, was in the winter of '56, January or February.

Q. Now before January of '56, had you been in the hospital at all?

A. When I went into the first camp I came down very quickly and I believe it was two weeks I was in there, not a hospital -- it was not a hospital but I was in a hospital barrack. They let these let down persons recuperate a couple of weeks.

Q. We are now completing this series of questions up to January of '56, Mr. Heine. We are completing that period prior to that. Tell me about any illnesses or sicknesses or anything that you had of that nature in this group of satellite camps prior to January of '56 or prior to the time you were sent to Moscow.

A. I was very sick with -- wait a minute, please.

When you are turning all over yellow --

MR. STANFORD: Jaundice?

THE WITNESS: Yes, jaundice.

BY MR. PRETTYMAN:

Q. How long were you in the hospital?

A. About three months, I think.

Q. This was in the first camp?

A. No, one of these camps. I don't remember which year it was.

Q. Do you remember which year it was?

A. No, I don't remember.

Q. I am going to wait a moment and see if you can recall that, Mr. Heine. You were in the hospital for three months. Can you remember what year that was?

A. I will have to think about that a little bit.

I believe it was in winter of '55.

Q. Winter of '55?

A. Yes.

Q. And was the hospital part of the prison camp?

A. There were some rooms for that use, yes.

Q. And you recovered from this illness?

A. Yes, I recovered.

Q. And you were sent back to cutting trees?

A. Yes.

Q. And any other illnesses?

A. No, I don't remember any.

Q. You were not sick during this --

A. Well, I coughing.

Q. What?

A. Cough.

Q. cough?

A. Yes (witness coughs, illustrating).

That was the usual thing in the winter.

Q. You weren't treated?

A. Oh, no.

Q. And the work you did during this entire period  
was cutting trees?

A. Yes.

Q. You didn't do any other kind of work?

A. After I was sick I was sometimes employed as --  
in that same hospital as a helper.

Q. What kind of helper?

A. In hospital.

Q. What did you do?

A. I made the beds of sick people and gave them food  
and --

Q. This was menial work?

A. Yes, yes.

Q. It was not a technical work of any kind?

A. No, no.

Q. You didn't give medicine of any kind or anything  
like that?

A. No.

Q. You were recovering during that period?

A. Yes.

Q. How long did you do that?

A. About two months.

Q. So you were really in the hospital five months,  
three months recovering and two months working?

A. Yes, sir, yes.

Q. Any other kind of employment or job of any sort  
during this entire time at the satellite camps?



A. No.

Q. I believe you already said that you didn't try to escape during this period?

A. No.

Q. All right. And is there any name of these last two satellite camps?

A. I had met them before already.

Q. No, no, not people at the camp. The name of the camps themselves was what? Was there any name for them?

A. There were, but I don't remember.

Q. These four camps you said, I believe, were about ten miles apart?

A. Yes.

Q. So we are talking about a total area during this entire period of what, 50, 60 miles total area?

A. Yes, about that.

Q. All right, in January or February I think you said you were sent to Moscow?

A. Near Moscow.

Q. How did that come about? How did you get the word you were going to leave?

A. All prisoners who were not Soviet citizens were carried and we were shipped, were taken out of that camp and

we went by car near Moscow into another camp.

Q. Near Moscow?

A. Yes.

Q. You drove in a car?

A. Train.

Q. Was this the special cars with the cages?

A. No, I don't think so. It was cattle wagon.

Q. You were put in a cattle car?

A. Yes.

Q. How many went with you?

A. About two or so.

Q. In the cattle car?

A. Yes.

Q. Russian guards?

A. Yes, yes.

Q. Any Estonians go with you?

A. No.

Q. Who were these people?

A. There were Germans, Iranians --

MR. CONNOLLY: Iranians?

THE WITNESS: You know --

MR. CONNOLLY: Persians, you mean?

THE WITNESS: Yes, Persians. I remember one Turk.

Mostly were Germans.

BY MR. PRETTYMAN:

Q. How long did that trip take?

A. Maybe three or four days.

Q. Were you told why you were being taken there?

A. The guards told us, "You can rejoice fellow, you are going home."

Q. When did they tell you this? When you were in the prison camp?

A. No, when we were going.

Q. The guards that were in there with you?

A. No.

Q. When did they tell you where you were going?

A. They didn't tell us where we were going. They only told us to rejoice, that we --

Q. How did they actually tell you you were going home if you were in the cars?

A. When they brought water or something for the stoves, what was in that, or the food.

Q. That everybody in this car was going to go home?

A. They told us, yes.

Q. And you arrived at a camp -- where was it near Moscow?

A. Potma.

Q. Is that the name of the camp or the city?

A. That was probably the central camp of one camp region.

Q. Let me see if you can point it out on the map, here, the best you can?

A. That name is not on that map.

Q. I just wonder whether it was north, south, east or west of Moscow.

A. I don't know that.

Q. Did you actually go into Moscow on the way to Potma?

A. I believe we went through Moscow, yes.

Q. Were you retained on the train?

A. Yes.

Q. And kept going beyond Moscow?

A. Yes.

Q. How long did it take you after Moscow to get to Potma?

A. Maybe a day.

Q. And a further day?

A. Yes.

Q. All right, now, after you got there what happened?

A. When we arrived in that camp, that was a camp for people who were not Soviet citizens, all of that camp.

Q. How many people were in that camp?

A. I believe about six or seven hundred.

Q. Any Estonians?

A. No.

Q. You were there how long?

A. I believe until '56, September of '56.

Q. About seven or eight months?

A. About so, yes, I believe.

Q. Who do you remember from that camp?

A. That is where Mr. Eulenburg.

Q. He came with you on the train or was he already there?

A. I believe he came with me and there was Mr. Schidlovski.

Q. Had he come with you on the train?

A. No, he had left earlier, I think.

No, I don't remember any others there.

Q. Now tell us about your routine at this camp. Why did you stay so long at that camp, if you know, if you were going to be released?

A. I don't know.

Q. Tell us about your routine there.

A. We didn't work there.

Q. What did you do?

A. Slept and walked around and --

Q. Was this the same kind of camp that you had been in before?

A. How it was built?

Q. Yes.

A. Oh, yes.

Q. And you had these same bunks?

A. Yes.

Q. In other words, the camp in appearance was precisely the same as the one you just come from?

A. Only bigger.

Q. Bigger?

A. Yes.

Q. It had the walls and fences and machine guns and all the rest?

A. Yes.

Q. You were definitely still a prisoner?

A. Oh, yes.

Q. And when you walked around, you walked around inside the camp?

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A. Yes.

Q. But you did not have to work?

A. No.

Q. How did you spend your time? Did you have games?

A. Yes, some played volley ball and some football --

Q. How many people were in this camp?

A. Six or seven hundred.

Q. Six or seven hundred?

A. Yes.

Q. You were the only Estonian?

A. German.

Q. No, Mr. Heine, I am talking about in reality now.

You were the only Estonian?

A. Yes.

Q. There were not any others, any other Estonians, who pretended they were Germans?

A. There was one who was born in Estonia but gave himself up as a Swede.

Q. And what was his name?

A. Tamvilius.

Q. Ever see him before?

A. No.

Q. Have you seen him since?

A. No.

Q. Do you know what happened to him?

A. I heard he got out from Soviet Russia and lived in Sweden.

Q. Have you ever had any correspondence with him?

A. No.

Q. What does he do? Do you know? What is his line of work?

A. He was an engineer. I don't know what --

Q. Did you try to escape from this camp?

A. No.

Q. Were you interrogated?

A. No.

Q. Were you beaten?

A. No.

Q. Were you indoctrinated?

A. No.

Q. Were you ill at all during this time?

A. No.

Q. You were not hospitalized?

A. No.

Q. Were you examined medically?

A. When you -- when somebody was sick there was a



doctor, yes, but I was not examined.

Q. Was the treatment, aside from the fact you didn't have to work, was the treatment better inside this prison? Did you have better food, for example?

A. Oh, yes.

Q. And you didn't have such terrible hours as you had in the other?

A. Yes.

Q. And you could sleep as long as you wanted?

A. Yes.

Q. All right. Now that brings us down to what? When did you leave that camp?

A. That was January, February -- I believe it was in May or about that time when the Russians began to try to put us to work.

Q. Why this sudden change of heart? Do you know?

A. I don't know. We refused. The whole camp refused and we staged a hunger strike.

Q. Everybody in the camp?

A. Pardon?

Q. Everybody in the camp?

A. Most of them, yes.

Q. What happened?

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A. Then there were two days only that last and then the Russians took out six or seven prisoners and sent them to detention camp near that same camp and I was one of them.

Q. Was that because you were a leader, considered a leader?

A. They presumed, yes, that I was one of the leaders.

Q. Were you, in fact, a leader of that hunger strike?

A. Not the main one, but I must admit it was some, yes.

Q. That you were what?

A. I helped organize people to begin a hunger strike.

Q. And who were these six people that went with you?

A. I don't remember, but most of them are in the West German Army.

Q. Do you remember any of the names?

A. No.

Q. Were they all Germans?

A. They were all Germans.

Q. None were Estonians?

A. No.

Q. Have you ever seen any of them since?

A. Some were on the train that brought us to West Germany, yes.

Q. The train that brought you to West Germany? You mean later in the year?

A. Yes, yes.

Q. And have you corresponded with any of them since then?

A. No.

Q. You have not seen them since you were on the detention train late in '56?

A. Where I saw the last of them was in receiving camp in Friedland, Germany.

Q. Where was this detention camp?

A. About two or three miles this side of that original --

Q. East or west of Potma?

A. I don't know exactly which direction. It was not far away.

Q. How many people were there that were at that detention camp?

A. There were about fifty people.

Q. All of these people would have been people who had misbehaved in some fashion?

A. No, most of them were who refused to work for Soviet Government. Most of them, I found out, I believe

half of them were priests and members of various sects, of various faiths, who refused to work for Soviets, and they were there.

Q. In other words, these were people who had misbehaved in some fashion? They were not normal prisoners? They had broken the rules?

A. Yes, that is what I was going to say.

Q. How was that camp different from the other ones you had been to?

A. It sounds a little bit funny, but there was not much difference. They didn't force us to work there either.

Q. They were what? They were separating you as troublemakers from the others?

A. I presume, yes.

Q. How long did you stay in that detention camp?

A. About two months.

Q. You still had the same clothing as before?

A. When there is winter then they give you winter clothing. When it is still summer they give you summer clothing.

Q. One suit?

A. Yes.

Q. One suit of clothing?

A. Yes.

Q. What happened at the end of that two months?

A. I believe we were taken to, direct to Moscow.

Q. Tell me about that. Taken by train, car or by whom?

A. Taken by car and by train.

Q. Were you taken by car with how many other prisoners?

A. I believe there were ten.

Q. Ten prisoners in a car?

A. Yes.

Q. Are you sure -- oh, you mean a train car?

A. No, no.

Q. Passenger car?

A. (No response)

Q. Truck?

A. Truck, yes.

Q. Were you guarded?

A. Yes.

Q. By Russian soldiers?

A. Yes.

Q. And who were these ten?

A. Germans.

Q. And these were ten out of the fifty that had been

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with you in this detention camp?

A. Yes.

Q. Did you know any of these ten?

A. I know them, they are all in Western Germany now.

Q. All ten of these are in Western Germany? You have their names somewhere?

A. No, I don't have their names. I have only Eulenburg<sup>25X1</sup> and Mr. Schidlovski. I have names and addresses in my book. The rest I don't remember.

Q. Your book here?

A. No, at home.

Q. What is this book, Mr. Heine?

A. This address book.

Q. How many names do you have in there?

A. I don't know, maybe a hundred or so.

Q. Are these people that you correspond with or you look them up when you go places, or what is the purposes of this book?

A. To send Christmas greeting cards, to be polite, that is all.

Q. Is this some kind of directory that has all list of Estonians in it?

A. No.

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Q. You arrived in Moscow aboard a truck?

A. No, we were taken by truck to railway station in Potma and put on train. At this time we were sent by passenger train. We were allowed to mix with ordinary people.

Q. Did you have tickets?

A. Guards probably had.

Q. Were you allowed to mix with the passengers?

A. Sit with the passengers, yes.

Q. You were not handcuffed?

A. No.

Q. How many guards did you have with the ten of you?

A. I believe two.

Q. Two guards?

And how long did it take you to get to Moscow?

A. I believe it was a night.

Q. Did you know why you were going to Moscow?

A. No.

Q. All right. You arrived in Moscow. Did they feed you on this train?

A. We had food with us, what was given from that camp.

Q. Before you left camp?

A. Yes.

Q. And were you given any papers or any documents?

A. No.

Q. You arrived in Moscow. You must have been really wondering what was going on?

A. We hoped that we get out.

Q. What happened when you arrived there? When was this, incidentally? When did you arrive there?

A. It must have been in August or September at this time.

Q. All right.

A. And then we were led to summer house in Moscow suburbs and we heard rumors that that has been the same house where that Field Marshal Paulus --

MR. CONNOLLY: P-a-u-l-u-s?

THE WITNESS: Yes -- had met his prisoner of war --

MR. CONNOLLY: Confinement?

THE WITNESS: Yes.

BY MR. PRETTYMAN:

Q. What kind of place was it? Was it a prison or house?

A. House, but surrounded by high fence, this time not by locked fence, but by 6 x 1 inch wood.



MR. CONNOLLY: Pickets?

THE WITNESS: No, a high fence.

BY MR. PRETTYMAN:

Q. And when you got there was there anybody there?

A. Oh, yes.

Q. How many prisoners were there when you got there?

A. About thirty or forty.

Q. And now there were ten more of them?

A. Yes.

Q. What about these thirty or forty? Did you recognize any of them?

A. I believe -- they were new for me, I think.

Q. Entirely new?

A. Yes.

Q. What were they? Russians, Germans, or what?

A. There were Germans, Spaniards, Danish people, some English people, an English seaman, a couple of them I think, but most were Germans.

MR. CONNOLLY: I am going to start questioning for a moment.

BY MR. CONNOLLY:

Q. There must have been at least an air of expectancy for a moment?

A. There was.

Q. You must have talked to these various people?

A. Yes.

Q. Could you tell what kind of people they were, what their backgrounds were, why they had been in Russian confinement?

A. Most -- oh, yes, that is very interesting. About half of the Germans had been in Germany and had been prisoners of war, sentenced to 25 years and sent to slave labor camps, but the other half were German Communists or during the war also went to Russia or defected to Russia and were arrested and put in prison too, because they had said something or had done something against the Soviet regime and were put to prison and now they were there too.

The Spaniards, I remember, they were, when there was a revolutionary war in Spain, then when the war ended unhappily for Communists many escaped to Russia and they told us that many of these who escaped to Russia were arrested and shot and died of hunger and exposure, and these two, I believe two or three Spaniards, were disillusioned, Communists, who were there. And the Englishman, he was -- I don't know when he had gotten to Russia, but as I remember now he told us that he went to Russia to look for

a paradise but was very quickly disillusioned and was arrested and now he was waiting for, he hoped, that he can get out now at last.

Q. Was there any attempt to propagandize you at this place near Moscow?

A. No.

Q. Do we have the name of this house of detention?

A. No, that was only like a cottage, two or three-story cottage.

Q. Near where?

A. In Moscow, in suburbs, but where I don't know.

Q. What was the name of the suburb?

A. I don't know.

Q. You couldn't know where it was, north, east, south or west?

A. I don't know that.

Q. Was it near any big highway?

A. It was not far away from the railway station but I don't know what or where it was.

Q. You were told it was the same place where the Field Marshal Paulus had been?

A. They, the prisoners, said that.

Q. Were there any prisoners in the house of detention

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here that were not anti-Soviet?

A. No, I don't think so.

Q. Everybody here in this place was anti-Soviet, even former Communists were there who had become disillusioned and had turned against the Soviet system?

A. Yes.

Q. Was there any attempt to propagandize you?

A. No.

Q. Was there any attempt made here to recruit you for Soviet intelligence or Soviet secret activities?

A. No.

Q. There have been many stories that have come out, and some of them I have read and some of these were in the book by Father Walter Cizek, who said before he was exchanged to the West NKVD people tried to induce him to act as a Soviet spy in the West. No attempt was made, to your knowledge, among any of these people?

A. No, I don't know.

Q. Certainly wasn't done with respect to you?

A. No. We had a very good time because there were German women, too.

Q. Oh, there were women here, too?

A. Yes.

Q. You said you had a good time?

A. Oh, yes, first time in many years to see woman.

Q. I see.

And the German women, what was their excuse for being here?

A. They had been arrested as Army nurses and had spent time there, went there.

Q. Didn't they find this strange, that for military service they had spent years in Russian prisons?

MR. RASKAUSKAS: I object.

BY MR. CONNOLLY:

Q. This was fairly commonplace, was it?

A. Commonplace indeed.

Q. Was there anyone present in this place that you suspected of being a Soviet agent?

A. No.

Q. Or was there anyone there that you suspected of being an infiltrator?

A. No.

Q. There were anti-Soviet sentiments expressed fairly commonly by the prisoners here?

A. Carefully.

Q. You had no fear that your conversations had been

overheard electrically or electronically?

A. No.

Q. The thought never occurred to you?

A. No.

MR. PRETTYMAN: You said no?

THE WITNESS: That is all --

MR. PRETTYMAN: You nodded your head and the reporter could not get your answer.

THE WITNESS: I am sorry.

BY MR. CONNOLLY:

Q. How long did you spend here?

A. Until October I believe.

Q. How many months was this that you were at this detention home?

A. Two or three months.

Q. You didn't have to do any work, you had freedom of the grounds?

A. Yes.

Q. Were you allowed to consort with the German women?

A. They lived among us. I didn't touch them but some did.

Q. There were no restrictions that the Russians imposed?

A. No, no.

Q. Was it possible to have alcohol or narcotics or anything of that sort in the place?

A. No, no.

Q. Were you fed well?

A. Well, yes.

Q. Were you subjected to any physical examination? Did any Russian doctors come to see whether you had wounds, diseases?

A. No, I don't think so.

Q. Any X-rays taken?

A. No.

Q. Or any blood test taken?

A. No.

Q. So no attempt was made to see whether you had any communicable disease or whether you constituted a threat to the health of others?

A. No, no. To make that picture clear, for example, in all these camps where I had been, syphilitics and TB -- they lived all among us.

Q. Had you developed a cough?

A. No.

Q. As far as you could tell, you were in good health?

A. When I came to West Germany and they made medical examination, then they found much wrong with me, but not this time.

Q. You were feeling well?

A. Reasonably well, yes.

Q. Now were you informed while you were at this house of detention as to what plans the Soviets had for you?

A. No, not there, not there in this place.

Q. Did there come a time when you left this place?

A. I believe it was in the beginning of October when we were taking a big bus --

Q. Auto bus?

A. Yes. We took that to German Ambassador --

Q. Residence?

A. Residence in Moscow, yes.

Q. How many?

A. About 20 people.

Q. And this was the residence of the Ambassador of the Federal German Republic?

A. Yes.

Q. Were you taken into the premises?

A. Yes.

Q. And were you taken under guard?



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A. Now this time there was only two Russian officers with us, without arms of any kind.

Q. Now when you went in the premises, what happened?

A. We were met by some German official and were told that we are in the near future going to get to our homelands.

Q. Now were all the twenty of you taken to the Ambassador's residence?

A. Yes.

Q. Persons who claim German citizenship?

A. Yes.

Q. So the Spaniards and the Englishman and the others had been separated from you?

A. We went back to that same camp.

Q. Oh, you went back?

A. Yes.

Q. You didn't stay?

A. Only maybe an hour.

Q. Were the two friends that you remember from your prison days in Siberia with you, Schidlovski and -- what was the other chap's name?

A. Ervin Von Eulenburg.

Q. They both went with you to the Ambassador's residence?

A. Yes.

Q. Did the German women?

A. Yes, yes.

Q. That did not, did it, exhaust from this detention house all those claiming German citizenship, did it?

A. I didn't understand that question, please.

Q. There were more than twenty German people that were claiming German citizenship at that house of detention?

A. Yes, yes.

Q. Was there any apparent reason why twenty of you -- why only twenty of you were picked?

A. No.

Q. How long did you stay at the detention house after visiting the Ambassador's residence?

A. I believe two weeks.

Q. Now while you were in the Ambassador's residence, were you interrogated by any German functionary?

A. They only asked our list of names --

Q. Did they want your name?

A. Yes.

Q. Your place of birth?

A. Yes.

Q. What name did you give?

A. Eerik Heine.

Q. What place of birth did you give?

A. Tartu.

Q. To the German?

A. Oh, yes.

Q. Estonian?

A. Yes, Estonia, yes.

Q. Did they ask you your parents' names?

A. Yes, they asked.

Q. Did you give them?

A. Yes.

Q. Did they ask the place of birth of your parents?

A. Yes.

Q. What did you say?

A. My father was born in Estonia and my mother, too.

Q. Did you know by this time where your parents were located?

A. No.

Q. You had not heard from your parents at all?

A. No.

Q. I guess this was since 1941 -- is this not so?

A. No, when I was in the Army, '44, I heard last of them.

Q. These Red Cross packages that you got, did you get those from your family?

A. No, from the German Red Cross.

Q. What period did you get those?

A. I began to get these when I was at Potma.

Q. Did you have any documentation with you when you went to the Ambassador's residence to show German citizenship?

A. No.

Q. When you told this functionary that asked you some questions in the Ambassador's residence, you told you were born in Estonia, of Estonian parents, didn't he say, "Well, what are you doing here?"

A. No.

Q. Did he ask if you had done any German military service?

A. No.

Q. Did not ask you?

A. No. May I interrupt?

Q. Yes.

A. These Soviet officials --

Q. Beg your pardon?

A. When the German officials ask our names, the

Russian officials were there too, from some ministerial service.

Q. You mean the German officials who was asking these questions were doing so in the presence of Russian officials?

A. Yes.

Q. Then the Russians -- were you speaking German?

A. Yes.

Q. Did the Russians appear to understand German?

A. Oh, yes.

Q. So these Russians, these Russian officials, who were present, knew that you were not a German at this point, but an Estonian; is that right?

MR. RASKAUSKAS: I object.

THE WITNESS: They knew that I am German.

BY MR. CONNOLLY:

Q. How did they know you were German?

A. I told them.

Q. Told who you were German?

A. When I was there in Tallinn, 1950.

Q. Did the German ask you if you had acquired German citizenship in any other fashion other than by birth?

A. No.

Q. Did you tell them that you had?

A. No.

Q. Did you tell the German official that you had acquired German citizenship in 1941?

A. No.

Q. What representations did you make to this German official that you were a German citizen?

MR. RASKAUSKAS: I object. He has not stated that he has made any representations.

THE WITNESS: I did not make any.

BY MR. CONNOLLY:

Q. You did not make any representations?

A. No.

10 Q. Did you not make any representations that you were a German in the presence of these Russians, these Russian officials, while you were there?

A. They knew by themselves that I am a German citizen.

Q. How did they know that?

A. I told them in 1950 I was.

Q. But these aren't the same people, are they?

A. No.

Q. Did they have records?

A. I don't know.

Q. Did you see any records?

A. No.

Q. Did you apply for German citizenship in 1941?

A. No.

Q. Did you apply for German citizenship any other time?

A. No.

Q. Until after you got in West Germany?

A. Yes, after that.

Q. When you went back and then were in the detention house?

A. Yes.

Q. Did the Russians say you were not a German?

A. They didn't say nothing.

Q. You are a Soviet citizen?

A. They didn't say nothing.

Q. They certainly weren't misled, were they, in your case?

MR. RASKAUSKAS: I object.

THE WITNESS: I don't know that.

BY MR. CONNOLLY:

Q. Well, you had not claimed German citizenship at the German Embassy?

A. No.

MR. STANFORD: It hasn't been determined that he was

requested to furnish any information of that nature.

BY MR. CONNOLLY:

Q. Were you requested?

A. No.

Q. The man wanted to know your name?

A. Yes.

Q. And your address?

A. Yes.

MR. RASKAUSKAS: I object as repetitious.

Q. Your place of birth?

A. Yes.

Q. Your name and address of parents?

A. Yes.

Q. Their place of birth?

A. Yes.

Q. Did they want any other information?

A. No.

Q. Now what happened during these two weeks that elapsed at the house of detention?

A. In these two weeks we were taken about two times to sightseeing tour in Moscow.

Q. Anything else?

A. No.



Q. Just had the freedom of the ground?

A. No, with bus again.

Q. But you had the freedom of ground where the house of detention was?

A. Oh, yes, yes.

Q. At the end of the two weeks, what did you do?

A. About, I believe it was -- the 20th of October, I believe, when about this same people who were there by that Ambassador, were called out and we were received by two or three Russian officers and taken by bus to Moscow station, put on the train, or wagon for us alone, passenger train, and from there began that journey to Germany.

Q. Any guards accompany you?

A. Only these -- I don't remember really, two or three Russian officers.

Q. Were you allowed freedom of the train?

A. Only on our wagon.

Q. In the car that you were in?

A. Yes.

Q. Before you left the detention camp, was any interrogation made of you?

A. No.

Q. Any physical examination?

A. No.

Q. Any papers given you?

A. No.

Q. Before you left did the Russians interrogate you at all about your claim or did they ask you to affirm that you were a German citizen before you left?

A. No.

Q. Didn't ask you that?

A. No.

Q. Or did they make any interrogation of you?

A. No.

Q. Were you fingerprinted?

A. No.

Q. So off you started with your train trip to Germany?

A. We were given new clothes then.

Q. Given new clothes?

A. Yes.

Q. Were you given any money?

A. No.

Q. You didn't have any money?

A. No.

Q. No papers?

A. No.

Q. Not even your name?

A. No.

Q. You stayed on the same train, did you?

A. Yes.

Q. Across western Russia and across Poland into East Germany?

A. East Germany, yes.

Q. You never got off the train?

A. No.

Q. Into East Berlin?

A. Yes.

Q. Where were you taken in East Berlin?

A. To Soviet Embassy in East Berlin.

Q. What was done there?

A. There some German official awaited us.

Q. Did you spend the night in the Soviet Embassy in East Berlin?

A. No.

Q. You were just there a couple of hours?

A. Yes.

Q. Any interrogation by Russians?

A. No.

Q. Any attempt to make you claim German citizenship?

A. No.

Q. Any papers issued you?

A. No.

Q. Any propagandizing during this time of you?

A. No.

Q. Any attempt to recruit you into Russian service?

A. No.

Q. They did not ask you anything about your German connections?

A. No.

Q. Were you visited by some West German official?

A. They waited for us there, yes.

Q. And did they interview you?

A. No.

Q. They did not?

A. No.

Q. Did they have a bus available?

A. There was a West Berlin bus awaiting by the steps of the Embassy.

Q. Did you board it?

A. After the Russians had given us over by list. I don't know what list it was.

Q. You boarded the bus?

A. Yes.

Q. You set out?

A. Yes.

Q. You crossed into Berlin at what point?

A. Through Brandenburg Gate.

Q. And which zone were you in then? Is that British zone?

A. That I don't know.

MR. CONNOLLY: Off the record.

(Discussion off the record.)

MR. CONNOLLY: We will adjourn at this time until 7:00 o'clock.

(Recess taken.)

- - -

EVENING SESSION

(Whereupon, at seven o'clock, p. m., the taking of the deposition was resumed).

BY MR. CONNOLLY:

Q Mr. Heine, we have you through the Brandenburg Gate just before the dinner recess?

A Yes.

Q Where were you taken in West Berlin?

A In some waiting room in a big building. I don't know where it is, and how it was called, but probably it was special for that purpose; when somebody is brought over, then for a couple of hours or so he has to stay there.

Q You stayed there a couple of hours?

A Yes.

Q All 20 of you?

A Yes.

Q Other than your two friends, do you know the names of any other persons that came over with?

A No, I don't remember.

Q Now, were you interrogated in West Berlin?

A No.

Q Did any Allied intelligence officers talk to you?

A No.

Q None whatsoever?

A No.

Q Neither French, British or American?

A No.

Q Did any West Berlin police talk to you?

A No.

Q Did any officials of the West German Government  
talk to you?

A No.

Q Were any questions asked of you?

A No questions.

Q Were any forms given to you to fill out?

A No.

Q After a couple of hours, what did they do with  
you in this big room?

A They gave us something to drink and I believe  
something to eat; coffee and cakes, I think.

Q They didn't welcome you to freedom?

A When somebody wanted to, yes, they could go outside  
onto the streets.

Q And did anybody go out on the streets?

A I don't know.

MR. STANFORD: I think he misunderstood you.

BY MR. CONNOLLY:

Q My point is, when you were brought into this hall, did anybody come up and greet you on behalf of the West, or on behalf of the West Germany Government, or the City of West Berlin?

A No.

Q No greetings whatsoever?

A No.

Q You weren't under constraint? There were no guards?

A No.

Q Did anybody get up and leave?

A No.

Q Did you ask any questions, "What is going to happen to us;" "What are you going to do with us"?

A They told us that they were waiting for a plane, an airplane to take us to West Germany.

Q They told you that when you first got there?

A Yes.

Q They brought you through the Brandenburg Gate into this building in West Berlin?

A Yes.



Q What airport did you leave from?

A I believe the West Berlin Airport.

Q What is the name of it?

A I don't remember.

Q And you haven't heard the name of it since you have been in the West?

A I have heard the name, but I can't remember how it was now.

Q Who told you that they were waiting for an airplane to take you to the West?

A When we went through the Brandenburg Gate and when we had entered West Berlin, then these officials who were with us, West German officials, broke the silence. Until we got to the Brandenburg Gate, nobody spoke nothing, none of the officers. And when we got through these gates, then one of these officials said, "Now, we are in West Berlin. Now you are free, and you can talk with whomever and whatever you want." And then, the conversations came that they were waiting for a plane for us, "We are taking you to a plane to go to West Germany.

Q Did you pass the Soviet War Memorial?

A I don't remember.

Q You were talking about the gates, the Brandenburg

Gate?

A Gates?

Q Yes. You said when you came through the gates.

Were there any gates at the Brandenburg Gate?

A No. How is that called then?

Q Is what called?

A Brandenburg?

Q You used the term a few moments ago that when you came through the gates. At the Brandenburg Gate, were there any gates there?

A No. It's a memorial.

Q Did you go through any gates?

A No. That's a difficulty in the language difference.

Q Did any Soviet officers accompany you to the Brandenburg Gate?

A No.

Q Did you have any trouble getting through the checkpoint?

A No.

Q Did they stop the bus?

A No.

Q The bus went right through? It didn't have to stop?

A No.

Q No Soviet officers or East German officers were aboard?

A No. There were some West German officials on board.

Q When you were flown out, where were you flown to?

A I don't remember the name of the town, but we were taken from there by bus out of the bus to Friedland.

Q Do you remember the town.--

A No.

Q -- that you landed in?

A No.

Q It was near Friedland?

A A couple of hours to drive, yes.

Q You mean you landed in an airfield, and then had to drive a couple of hours to Friedland?

A Yes.

Q What kind of plane did you fly in?

A Passenger plane, I think.

Q What kind of markings on it?

A I don't remember that.

Q Was it British?

A I don't know.

Q American?

A I really don't know that.

Q West German?

A I don't know that.

Q How many engines?

A I believe two. I don't know exactly.

Q When you got to Friedland --

A Yes.

Q Where were you taken?

A That was a special camp for refugees who came from behind the Iron Curtain.

Q Were the 20 of you still together?

A Yes.

Q What was the name of the camp?

A Friedland.

Q What kind of accommodations did you have?

A Barracks.

Q They separated the men from the women, or did they let you stay together?

A Separated.

Q Were you interrogated here?

A Yes.

Q By whom?

A By the West Germans.

Q By the West Germans?

A Yes.

Q And this was what date?

A We arrived on the 26th of October, I believe, and it must have been a couple days after that.

Q Now, the West Germans, were they in uniform?

A No.

Q Civilians?

A Yes.

Q Did they represent themselves as being representatives of the West German intelligence?

A No.

Q You were questioned by these people, were you?

A Yes.

Q What kind of questions were you asked?

A Well, "Where were you born," "Where have you been, in which army and which camp, prison camps," and "Where did you captured?"

Q They wanted your life history such as we have taken now?

A Yes; not so thoroughly.

Q How long did it take to interrogate you?

A A couple of hours.

Q Did they make notes?

A Yes.

Q Did you have to fill out any forms?

A I filled a form there, yes, stating that I am not a German but an Estonian, and that I would bluff the Russians into believing that I am a German citizen.

Q Why did you do that?

A I was not a German.

Q Yes, but you didn't bluff the Russians, did you?

A Yes.

Q Who did you bluff?

MR. RASKAUSKAS: I object to that question.

MR. CONNOLLY: It's not my words; it's his words.

BY MR. CONNOLLY:

Q Who did you bluff?

A The Russians.

MR. RASKAUSKAS: I object. I would like to have a specific question to that. We can't follow that, whether that is 1941 or 1957.

MR. CONNOLLY: Before they let him out of Russia.

MR. RASKAUSKAS: Can you tell him when?

MR. CONNOLLY: Just before they let you out of

Russia, did you bluff anybody then?

MR. RASKAUSKAS: I object to the question.

BY MR. CONNOLLY:

Q Didn't you tell the interrogator or a civilian in the residence of the West German Embassy in the presence of two Russian officers that you were not a German?

A No.

Q Didn't you tell them you were born in Estonia of Estonian parentage?

A Yes.

Q Did you tell them you had citizenship in Germany?

A No.

Q MR. STANFORD Where are we talking about now?

MR. CONNOLLY: The same place.

THE WITNESS: '46?

BY MR. CONNOLLY:

Q Just before you came out of Russia?

A No, I didn't. Before I came out of Russia, no. In reality I didn't have a German citizenship, I only told the Russians that I had it, and they believed it.

Q Did you have an alien passport in 1941?

A Yes.

Q In Germany?

A Yes, I had.

Q You say you had?

A Yes.

Q Do you still have it?

A Yes.

Q Where is it?

A At home.

Q Where was that during the entire time that you were in various Soviet prison camps?

A By my mother.

Q In your mother's keeping?

A Yes.

Q When did you give it to her?

A Before I went into the Army.

Q She kept it?

A Yes.

Q When did your mother send you your birth certificate?

A Birth certificate?

Q Yes.

MR. STANFORD: I don't think he stated that she did send him the birth certificate.

MR. CONNOLLY: I think he did.



BY MR. CONNOLLY:

Q Did your mother send you a birth certificate in Germany?

A When?

Q Any time, did she?

A Yes; when I got the German citizenship, yes.

Q That wasn't in '41?

A No.

Q When did you find your mother?

A About in December, 1956.

Q How?

A I first wrote the Estonian Legation in London inquiring about my parents, where they are.

Q What prompted you to write the Estonian Legation in London?

A Because that was the only legation nearby, and I looked the address up, and I wrote there.

Q What was told you there?

A They checked and in December I knew that she was there in Canada.

Q Do you mean you looked around Western Europe, and you found only one legation, the one in London?

A Yes.

Q And you wrote to London, and they had been able to keep track on Estonians and where they had gone?

A Yes.

Q From this one legation in London?

A Yes.

Q Did they know where you had been?

A I told them that I had come from Russia.

Q Have you found out how your mother got to Canada?

A Now I know, yes.

Q What story did she tell you?

MR. RASKAUSKAS: I object to your characterizing it as a "story."

MR. CONNOLLY: Why?

MR. RASKAUSKAS: Well, it sounded uncomplimentary, that's why. It sounded very uncomplimentary.

MR. CONNOLLY: I didn't mean it that way.

MR. RASKAUSKAS: That's the way it sounded to me. You have to exercise a little deference with this witness.

MR. CONNOLLY: Can you suggest another word?

MR. RASKAUSKAS: Yes:

Can you tell me how your mother got to Canada?

MR. CONNOLLY: He can't. Obviously, he will have

to hear it from his mother.

BY MR. CONNOLLY:

Q What did your mother tell you as to how she got to Canada?

A She went from Germany to England.

Q When?

A I don't remember these dates; she knows it best.

Q She never told you?

A She told me, yes.

Q Did she tell you how she got from Germany to England?

A She went to work there with my father.

Q She went to work in England?

A Yes.

Q With your father?

A Yes.

Q What was your father doing in England?

A As I remember, he had several jobs.

Q And then they immigrated to Canada from England?

A From England, yes.

Q And that is how the Estonian Legation in London happened to know about them?

A Probably, yes.

Q Let's go back to Friedland:

Did they interrogate you for a couple of hours?

A Yes.

Q And then, what happened? Did they give you a physical examination?

A No; not this time.

Q How long did you stay at Friedland?

A It could have been a month or so.

Q How many times were you interrogated at Friedland?

A Only that one time.

Q Did any Allied intelligence officers, to your knowledge, come to interrogate you?

A No.

Q Did you volunteer to any West German authorities at Friedland that you had information on Soviet Russia that you would like to pass onto Russian intelligence sources?

A They asked mostly about camps, the locations, too, and who I have seen there, Germans and so on.

Q That occurred during this couple of hours interrogation the first day you arrived?

A Yes.

Q How did you pass the time in Friedland?

A Oh, there were movies and church, and that sort

of thing.

Q It must have been a happy place, wasn't it?

A It was, yes.

Q Had you seen a movie in ten years?

A No. That is not right, because in Poltsama there were movies, too.

Q At the end of a month, what happened?

A I was sent to recuperation home or something.

Q A hospital or sanitarium?

A No. As if it was a sanitarium, yes.

Q Did you have a physical examination at Fribdland?

A No, not there.

Q Where did you get the examination?

A I remember now the name of the town that we went to.

Q They didn't have any doctors in this camp?

A They did, yes.

Q But none of them looked at you?

A Oh, yes; I remember now they looked at us, yes.

Q They gave you a complete physical, didn't they?

A Yes; I remember now, yes.

Q And didn't they look at your scars and map out on a figure the scars that you had?

A Yes.

Q How many scars do you have?

A Visible; here is not visible (indicating).

Q You just pointed to behind your left ear?

A Yes.

Q That is not visible?

A Yes.

Q Do you have a scar on your left leg?

A Not visible; too slight.  
leg

Q This/ wound that you had that you walked through  
Siberia on it, didn't leave a scar?

A That is there (indicating), yes; but there is another  
one, too.

Q How many on your left leg?

A Two.

Q How many in your right leg?

A One.

Q Where is the one on your right leg located?

A One is here (indicating).

Q When you say "here," I don't know what you are  
pointing to.

MR. STANFORD: The left thigh.

MR. CONNOLLY: Outside or inside?

THE WITNESS: Outside.

BY MR. CONNOLLY:

Q Where is the second one?

A Here (indicating).

MR. STANFORD: The top of the left thigh.

MR. CONNOLLY: Inside or outside?

MR. STANFORD: Just about in the middle, above the knee, about four inches.

BY MR. CONNOLLY:

Q Any other scars?

A No.

Maybe Mr. Raskauskas can show them, that document they gave me from Friedland, and you can see what I had.

Q I was going to ask you about the time you got out of Friedland, did they give you any document?

A Yes; one document.

Q One document?

A Yes.

Q Apparently you have a copy here?

A Yes.

Q In the course of your physical examination at Friedland, did they find something wrong with you?

A Yes.

Q What?

A This document says, "Malnutrition, and no teeth, and nerves."

It's all written down, what I had.

Q And you were sent to a hospital or a rest home, were you?

A Yes; a rest home.

Q Where was that located?

A I tried to remember that town, but no.

Q This caused you to be separated from your fellows; is that right?

A Yes.

Q That caused you to be separated from your fellows; is that right?

A That's right.

Q Did you ever, thereafter, rejoin the group that came with you?

A No.

Q So you don't know what happened to them?

A No.

Q Except your two friends who you know have remained in the West?

A Yes.



Q As you have previously indicated?

A Yes.

Q Are you in correspondence with them?

A Only with one I have been.

Q Who is that?

A Mr. Oldenburg.

Q Where is he?

A I have his address at home.

Q I think you are going to provide that, are you not?

A Yes.

Q How long did you remain in this recuperation home, as you put it?

A January or so, I think.

Q In '57, is that right?

A Yes.

Q Now, were you returned to Friedland from that hospital?

A No.

Q What was done to you at this hospital? Was the hospital nearby Friedland, incidentally, or was it some distance away?

A It was some distance away.

Q In another town?

A Yes.

Q But you don't remember the name of the town?

A Not momentarily.

Q What happened to you when you finished your hospitalization?

A I went from there to a refugee camp.

Q Where?

A In Oldenburg.

Q Did you go under your own authority and power, or were you transported there?

A A family friend wrote from there to me, and --

Q Who is this?

A This I am trying to remember, that name. I have the address at home.

Q From the end of November until January, you were in the hospital; right?

A Yes.

Q And then you were transported to, what is this, Oranburg?

A Oldenburg.

Q And what is Oldenburg?

A A little town.

Q What kind of a camp is there, a displaced persons' camp?

A Displaced persons.

Q Whereabouts in Germany is Oldenburg?

A Near Bremen and Hamburg.

Q How long did you stay there?

A Until my German citizenship came, and I went to Canada.

Q Now, before you got to Oldenburg, were you given any papers other than this one that you have just showed us from Friedland?

A There were some papers, yes.

Q What other papers?

A I don't remember what they are, but some papers are at home.

MR. CONNOLLY: I am going to ask you to either make copies of them at home at our expense, and send them to your lawyer, who will pass them on to us; or send them to your lawyer, and he can have copies made.

MR. RASKAUSKAS: We have agreed informally on these addresses. We are not going to stipulate on this record, and I don't want this record to show there are to be any misunderstandings that we are obliging ourselves to supply these

addresses or these documents. We will try to honor the informal requests to produce the same, but this deposition is for the purpose of eliciting facts known to this man and not for other discovery purposes, and those addresses that were informally agreed to, I will be glad to try to cooperate with you and furnish them.

MR. CONNOLLY: We will just continue the deposition then, and he will go back to Canada and bring them back.

MR. RASKAUSKAS: What do you mean by "continue the deposition"?

MR. CONNOLLY: I will continue.

BY MR. CONNOLLY:

Q What are these documents that were given to you?  
You kept them; they must have some significance to you.

A So that I am entitled to ride free on the trains, and that kind of thing, bonuses.

Q Where did you get those papers?

A From Friedland, I think.

Q Now, in the hospital or at Oldenburg, were you interrogated in depth by any police, military or intelligence officers?

A No; neither in Oldenburg nor in the hospital.

Q Where?

A I went myself to them.

Q To what?

A To the American Embassy.

Q Where?

A In Bonn.

Q When?

A It must have been from that hospital, yes.

Q You mean you could get out of the hospital any time you wanted to?

A Yes. That wasn't a hospital; it was a rest house.

Q But you had the free run of the community?

A We had free rides on all these railroads, and I could go everywhere.

Q How come you don't remember the name of the city then?

A I don't remember it; I really don't.

Q You went to the American Embassy in Bonn?

A Yes.

Q Sometime while you were in this rest house?

A Yes.

Q What did you do there?

A In that camp in Portuma where we were, <sup>we</sup>troublemakers

were sent there were some Lithuanians who had sent three of their fellow countrymen who were shot down brutally, and --

Q By whom?

A By the Russians, trying to escape. Because I knew that I was getting out of Russia, I took some sort of an affidavit from them describing these facts, and brought it over to West Germany.

One of these men who was killed, a relation of that man, had a father in the West -- America -- and then I went to that embassy and asked to talk with someone about that thing, that that relative would be notified that his next of kin was killed in Russia trying to escape.

Q What did you do with the affidavit?

A I gave it to one American official.

Q You don't know his name, I take it?

A No.

Q Was he in uniform?

A Yes, he was in uniform.

Q Did he identify himself to you as to what branch he was in, or what he was doing?

A Maybe; I don't remember that.

Q What did he do, thank you?

A Yes. He thanked me and asked where I have been, and from where I am, and I told him that I have been in prison camps and I have been a guerrilla. And then, he asked where, and I told him, I showed him. There was a map on the wall, and I showed him in this region, the District Narva, and he said, "That is wonderful that you are here, and we would like very much to speak to you more about these things. You don't mind if we ask you to visit us?"

He took my address, and said, "We write you and invite you to visit us."

Q Did you receive an invitation?

A Oh, yes, I did.

Q How much later?

A That I don't exactly remember, but maybe in February or so.

Q You were then in Oldenburg?

A Yes. I think I was in Oldenburg.

Q And you came from Oldenburg down to Bonn?

A No. It was not in Bonn. They asked me to call at Frankfurt/am/Main.

Q Did you?

A Yes, I did.

Q Where did you go in Frankfurt/am/Main?

A They gave an address, and I believe it was that somebody contacted me, and we went to a house, and --

Q Was this an official government installation, U. S. Government installation?

A I don't know.

Q Was it a legation or consulate?

A No; not at all. A private house, I think.

Q Well, didn't you think that was odd?

A Why?

Q Well, how did you know you were being interrogated by anybody representing the United States?

A Because that officer there in that embassy told me that, "We notify you all right," and --

Q All right. And so you showed up at a private home in Frankfurt/am/Main?

A Yes.

Q And somebody did greet you and take you in the house?

A Yes.

Q Do you know who this was?

A I don't know where it was.

Q Who?



A I don't know.

Q Was he in uniform?

A No.

Q Civilian clothes?

A Civilian.

Q Then, what did he do?

A They asked how --

Q Was it one or more than one?

A I went there two or three times.

Q Did you see one person, the same person, or more than one person?

A Several persons.

Q Did more than one person talk to you at one time?

A Yes.

Q Were these people Americans or some other nationality?

A I think they were Americans.

Q How do you know that?

A Their German language was pretty bad.

Q They spoke to you in German?

A Yes.

Q Did they give you their names?

A I don't remember.

Q Did they give you American, English-sounding names or

German-sounding names?

A American or English-sounding names.

Q So they interrogated you two or three times?

A Yes.

Q Over how many days?

A Maybe over a month or so.

Q And what were they concerned about?

A They all asked where I have been, and in the army where I have been, and where in the camps, and how I got out.

Q Was that the end of it?

A I believe three times I was there. I was paid 25 marks a day; I was given a hotel. They wanted to question me on another day.

Q After three times, was that the end of it? Did you hear from them any more?

A No. That was the end of it.

Q Now, from the time you were at Friedland, were you given any money at Friedland?

A Yes. We were given money. I think it was 50 marks and a watch.

Q And when you were in the rest home, were you given any money?

A All expenses were paid, and we got a little pocket money, too; yes.

Q How about at Oldenburg?

A At Oldenburg some German Government agency contacted me, and they began to handle that pay question for repatriated persons who have been in the German Army.

Q And did you undergo any other interrogation by any other service or person before coming to Canada?

A No.

Q Now, in Canada was there anyone who had known of what you had done inside Soviet Occupied Estonia, the travail that you had suffered and the number of prison camps that you had been in?

A In Canada, no.

Q Was there anybody in the West that knew this?

A In Germany it was known, yes.

Q Who?

A Mr. Carl Brett and Mr. Schidlauski.

Q And Mr. Eulenburg?

A Yes.

Q Mr. Schidlauski and Mr. Eulenburg knew about your imprisonment from 1951 forward, did they not?

A Yes; forward, yes.

Q They didn't know anything about your activities in Estonia, did they?

A No.

Q Or about your trip to Siberia to bring back six Estonians?

A No.

Q Now, Mr. Karl Brett, we haven't heard his name before. What did he know?

MR. RASKAUSKAS: Yes, we have.

THE WITNESS: I was with him about five years in that same prison camp, region.

BY MR. CONNOLLY:

Q He didn't know anything about your Estonian activities, did he?

A No.

Q So, there was no one in the West that knew about your Estonian activities as a freedom fighter, is that so?

A Only some persons; one is in Toronto whose brother I brought out from Siberia.

Q You have given us his name?

A Mr. Kirik.

Q What did he know about you?

A He had received letters from his brother from there.

Q His brother wrote letters telling how you got him

out of Siberia?

A No. He didn't tell that. When I met Mr. Kirik in Toronto and that family name sounded familiar, then I asked him, "Have you a brother in Russia?" and he told me yes; and I told him about that thing. Then when he wrote his brother, he told him greetings -- he sent greetings, and, "Surely you know him," and so on.

Q Know who?

A Me, Eerik. And the brother had answered him greetings from him and his wife, too, for Eerik, old savior.

Q For what?

A Old savior.

Q Didn't Kirik know you as Priit Poltsana?

A Kirik? No.

Q He knew you as Eerik Heine?

A Yes.

Q Now, a number of stories have been written about your exploits in Estonian papers, published in Canada; is that not right?

A Yes.

Q And in the United States?

A Yes.

Q Now, the authors of those stories, did they get

information to write about you from any person other than yourself?

A Nobody has asked me only that book, yes, that is; but, you mean in the newspapers?

Q Yes.

A No. Nobody has asked me anything.

Q What?

A Nobody has asked me anything.

Q What?

A Nobody has asked from me nothing.

Q My point is this:

You have never been interviewed by any newspaper-man?

A Yes.

Q And those interviews are the sources of stories that have been printed about you; is that not so?

A Yes.

Q There is nothing that has been printed or written about you that comes from any source other than yourself; is that not so?

MR. RASKAUSKAS: I object to that question.

MR. CONNOLLY: Answer the question.

MR. RASKAUSKAS: I don't think he can answer that question in its present form, Mr. Connolly, you are asking him

for all the sources of all newspaper articles whatsoever, and he can state what information he has given, what people he knows that have firsthand knowledge, but he certainly can't make any sensible answer to the sources of writers, many of which are possibly unknown to him, where they got their information.

BY MR. CONNOLLY:

Q Do you know of anything that has been written about you that did not originate with you?

A Oh, I haven't read many of these stories about me.

Q I beg your pardon?

A I haven't read many of these stories about me.

Q Of everything that you have read, do you know of anything that has been written about you that you weren't the ultimate source of?

A Yes. They have taken that from my lectures.

Q You are the author of your own lectures, aren't you?

A Oh, yes.

Q Now, my question is, have you read anything about you, about yourself, that contained any information that came from any person other than yourself?

A No, I haven't.

MR. RASKAUSKAS: For the purpose of clarifying, are you including those Estonian papers from Estonia that you made copies of this morning or yesterday morning?

MR. CONNOLLY: No. The Russian papers, I am not.

MR. RASKAUSKAS: They are Estonian papers.

MR. CONNOLLY: Printed in Russia.

MR. STANFORD: Tallinn.

MR. CONNOLLY: They are Russian papers.

MR. RASKAUSKAS: They are written in the Estonian language and published in Russia.

MR. STANFORD: No. They are published in Tallinn.

MR. CONNOLLY: Is that not so, Mr. Heine, Defendant's Exhibit No. 7 and Defendant's Exhibit No. 8, although these are written in the Estonian language, they are printed in Russia, are they not?

THE WITNESS: Yes.

MR. CONNOLLY: Russian papers, printed in the Estonian language?

THE WITNESS: Yes.

MR. CONNOLLY: Let's take a ten-minute recess here.

(Whereupon, by agreement of counsel a ten-minute recess of the deposition was taken).



MR. PRETTYMAN: Back on the record.

MR. STANFORD: There is something with regard to one of the last questions that Mr. Connolly asked with regard to Mr. Kirik, and how he was known to Mr. Kirik, that he wanted to change.

THE WITNESS: Until we reached Tamsalo and they all went their ways, I was known to them as Priit, Priit Poltsana, but after they went all their own ways -- before they went to their own ways -- I told that to them that I am Eerik.

BY MR. PRETTYMAN:

Q Who did you tell?

A Mr. Kirik and the others who were with me.

Q The whole group?

A Yes.

Q Was there anybody else that you were letting know who you really were at that time?

A What?

Q At the same time that you were telling them what your real name was, were you telling anybody else?

A Only Eerik.

Q You told them your name was Eerik?

A Yes. I was known among my people there in the forests and among the peasants, and so on, as Eerik.

Q Is that a fairly common Estonian name?

A Yes; fairly common.

Q These names that you have declined to give us, do you know the names to which I am referring?

A Yes.

Q Have you given those names to any Estonian emigres in Canada or in the United States?

A No, I don't think so.

Q Think about that for a minute:

Have you given those names to anyone since coming to Canada in 1957, other than your lawyers?

A Some of these people whose relatives are there, I have told them.

Q You have told the relatives of these people whose names you won't give us?

A Yes.

Q In the United States or in Canada?

A In Canada mostly. Yes, in Canada.

Q You have looked up the relatives and told them about these people?

A They looked me up.

Q Anybody other than relatives?

A I believe to Mr. Aliakas I have told where I have

been in that guerrilla time.

Q I am not asking you where you have been. I am asking you whether you have told anybody the names of these people that you have declined to give us.

A No.

Q You didn't tell Mr. Allakas?

A I told Mr. Allakas where I have been in this time that I have passed through several times to his village where he lived in Estonia.

Q You have told a number of people that, haven't you, Mr. Heine?

A Not many people, no; I don't think so. When I had a lecture when more people were together, then I have told only I was guerrilla in Narva.

Q How about Mr. Verlaid?

A That's my relative, yes.

Q How is he related to you?

A Brother-in-law.

Q He is your brother-in-law?

A Yes.

Q Had there been several offers to write your story from other people?

A Yes, there have been.

Q And you turned them down?

A Yes.

Q But you did ask Mr. Virilaid to write it, or did he ask to write it?

A He asked.

Q And you accepted that offer?

A Yes.

Q Was he your brother-in-law at that time?

A No.

Q You married his sister after he came to you?

A No.

Q Tell me about that.

A I married his wife's sister.

Q His wife's sister?

A Yes; because that was the same girl I knew in earlier times.

Q In Estonia?

A Yes.

Q And were you already married to her when he came to you with this offer?

A No.

Q He came to you with the offer, and then how long

thereafter did you marry his wife's sister?

A I came to Canada in '57, and married my wife in December '57. He made that offer about almost right away when I came into Canada.

Q How long did it take him to write it?

A That first book?

Q I am talking about this book that you have right here called "Run for the River."

A You mean in Estonian language?

Q Yes.

A It came out, I believe, in '63.

Q So it took him six years to write it?

A I think so; almost, yes.

Q Have you ever told any emigres that you have sent secret writing to anyone in Estonia since coming to Canada in 1957?

A I believe, yes, I have.

Q What did you tell them?

A That was the same person, that Tamsalo girl this time.

Q This is the girl whose name you refuse to give us?

A Yes.

Q And you told some emigres that you sent her secret writing?

A Yes.

Q Tellus about that.

A How the secret writing is?

Q In the first place, is what you told them true?

A Yes; that's true.

Q You told them a true story?

A Yes.

Q What kind of secret writing did you sent to her?

A You make a piece of paper wet, and then you put a dry one on that wet paper --

Q On top of it?

A Yes. And then you write with pencil pressing strongly down --

Q On top of the paper?

A -- on top of the dry paper, and then it comes, leaves impression on that water paper, water print, or how it's called, and when that wet paper drys out, then you smoothe or how it's called.

Q You write a regular letter on top of it?

A Yes.

Q And then how does she read the secret letter?

A She has to put it into water again, and then you look against the light, and then you can read what is there.

Q How does she know to hold it against the light and put it in the water?

A I showed her.

Q So this was an advance arrangement with her?

A No, it wasn't. We used it when I was in the guerrilla days; then I sometimes wrote her this way.

Q You wrote her letters while you were a guerrilla?

A Yes.

Q What name did you sign it with?

A Eerika.. Eerika Kuusik is my mother's maiden name, and Eerika is a girl's name.

Q Was this the name you were using at this time?

A No.

Q Just between the two of you?

A Yes; between the two of us.

Q How many times, would you say, you wrote her while you were a guerrilla?

A A couple of times.

Q You taught her this secret writing process, did you?

A Yes.

Q So when you sent her letters from Canada, you sent them with this name?

A Yes.

Q Eerika Kuusik?

A Yes.

Q And as soon as she saw that name, she knew that she was supposed to put this in the water, and hold it up to the light?

A Yes.

Q What kind of message did you sent her in secret?

A As I remember, how is that -- you know -- how life is now, and what has happened, and --

Q You asked her to send you information about some of these people that you had contacts with, that you had gotten to know or were worried about?

A No.

Q You didn't ask about anybody?

A No.

Q You wanted to know about how life was?

A Yes.

Q Did she write youback?

A But not in water print, no.

Q Did she tell you how thingswere?

A Yes. She said, "I am alive and I have a new place."



Q She didn't answer your secret letter then, did she?

A No.

Q How many times did you write to her in secret?

A I believe two times.

Q How many times did you tell the emigres you had written to her in secret?

A I don't know; maybe once or two times.

Q You didn't tell them that you had written to her a number of times?

A No.

Q Many times?

A No.

Q And how many letters had you gotten from her?

A One, I believe.

Q Do you still have that letter?

A I believe, yes.

Q She has never sent you any kind of secret letter?

A No.

Q What did you say in the second letter, second secret letter?

A I asked the same thing.

Q You asked her why she hadn't sent you a secret

letter before?

A No, I didn't.

Q You just asked the same question over again?

A Yes.

Q And did you get an answer to that one?

A No.

Q So you don't know whether she is alive or dead?

A I believe she is alive.

Q How do you know?

A She is young and healthy.

Q You are just surmising that?

A Yes.

Q How long ago did you write these secret letters?

A How long ago?

Q Yes.

A That must have been in '59 or so.

Q Soon after you arrived in Canada?

A Yes.

Q Both letters?

A Yes, I believe so, yes.

Q You have made no attempt to contact her since

1959?

A No.

Q Mr. Heine, do you know whether or not the FBI has been following you when you left Canada and have gone through the United States on your tours?

A I didn't understand that, please.

Q Do you know whether or not the FBI, you know what the FBI is?

A Yes.

Q Do you know if the FBI has been following you in your trip, your lecture tour of the United States?

A Yes.

Q And your various visits to the United States?

A Yes.

Q Do you know whether they have been following you or not?

A Yes, I know that.

Q How do you know that?

A After Washington performance I told you, I got the first message in, I believe in Detroit, from Mr. Tamar that somebody had been there from the FBI and asked questions about me.

Q That was the first time you knew it?

A Yes, I believe so.

Q You had never seen anybody following you, though?

A No.

Q Did you hear thereafter from other people that the FBI was following you?

A Yes.

Q Did they say they were following you or asking people about you?

A Asking people about me.

Q They didn't say they were following you?

A No, I don't think so.

Q And you have told people that the FBI has been following you?

A Yes. It's not following, questioning.

Q Questioning people?

A Yes.

Q As a matter of fact, you were telling people that the FBI was questioning people behind you before you ever heard about Mr. Raus' accusations against you; isn't that true?

A (No response).

Q You understood that question, didn't you, Mr. Heine?

You were telling people that the FBI was questioning people after you had been to a city? You were telling people

that even before you heard about any accusations that Mr. Raus may have made about you?

A I don't understand. That's too complicated.

MR. STANFORD: Could we try to clarify that?

Could you rephrase that, Mr. Prettyman?

BY MR. PRETTYMAN:

Q When did you first begin hearing about Mr. Raus' accusations?

Incidentally, I am using the language of the complaint rather than characterizing it myself.

A Well, I have to look after that.

I believe it was in New York.

Q It was in New York?

A Yes.

Q But when?

A When?

MR. STANFORD: I think at this juncture we have to determine whether he means that he heard about it in New York, or that he heard that Mr. Raus issued these accusations in New York.

BY MR. PRETTYMAN:

Q Mr. Heine, you have never heard, you personally have never heard Mr. Raus make any charge against you, have you?

A No; not personally, no.

Q The only thing you know about anything that Mr. Raus may have said about you is what you have heard from others?

A Yes.

Q Is that correct?

A Yes.

Q Now, I am asking you when the first time was that you may have heard from others about things that Mr. Raus allegedly was saying about you?

A It was definitely before I got the first notice that the FBI was questioning people. It was definitely before that.

A When was it?

Q I have to look over my schedule book, from when I went to when.

Q What city was it where you first heard this?

A It must have been in New York.

Q What year?

A '63.

Q 1963?

A Yes.

Q What part of the year was that?

A I have to look on my schedule book when I left

Washington.

Q Was this during your main United States tour, the tour that went across the country?

A Yes.

Q And this was during your New York visit, during that tour?

A No, I came or I was earlier when I came to Washington, I had the performance earlier than Washington, but I went from there to Cincinnati -- not Cincinnati -- south; and then I went to Baltimore; and to Washington. And from Washington I drove through New York to Detroit, I believe.

Q You first heard it in New York?

A Yes.

Q Who did you hear it from?

A I believe it was in the Estonian House there.

Q Who did you hear it from? This was quite a startling piece of information, wasn't it?

A Oh, yes.

Q I assume you remember it pretty well?

A There were about, I believe, half a dozen people in that Estonian House, and we talked and then I was told this thing that I am a Communist agent or something, very suspicious person, something like that.

Q Who told you that?

A I believe that was Mr. Allakas and Mr. Keerg and Mr. Kuklane, and there were several others?

Q All these people told you they had heard the same thing?

A Yes, that talk was about that.

Q I want to know who told you this information about Mr. Raus?

A I believe all these people told that.

Q Where did they say they heard it?

A I don't know that.

Q They didn't tell you where they had heard it?

A I don't remember it.

Q Where did they say Mr. Raus had said it?

A I don't know that.

Q You don't remember that?

A No.

Q And what did they say he said?

A It was, I believe, in that connection that I am a very suspicious man, and everybody has to be careful with me, or something like that.

Q Now, Mr. Heine, some other people totally apart from Mr. Raus, totally unconnected with Mr. Raus, have questioned



your story, haven't they?

A I don't remember.

Q You don't remember anybody questioning your story except Mr. Raus?

A No.

Q How about Heino Joe that called you a spy in Canada?

A That is in Canada now, not in the United States.

Q I am not asking you just about the United States. I said, has anybody else questioned your story?

A Not the story. But after these rumors spread in the United States, then they began to come into Canada, too.

Q Has anybody questioned your story in Canada or the United States, aside from Mr. Raus and Mr. Heino Joe?

A I can say that through these, through that slander and libel, the Estonian community.

Q Which one?

A From Raus. The Estonian community in Canada and in the United States and in Sweden and in Australia, and everybody where there are Estonians are split; some believe and some don't, no.

Q The Estonian community is split into two groups?

A Yes.

Q And there are those who believe you --

A Yes.

Q -- and there are those who don't believe you?

A Yes.

Q How many members are there of the Estonian community in these two countries, would you say?

A Here in the United States and Canada?

Q Yes.

A Maybe 20,000.

Q And how many of those 20,000 would you say, are familiar in one way or the other with your story? In other words, who would have some opinion about you or would have taken part in this split in some fashion?

A That's a very, very difficult thing to say. Most believe in me.

MR. RASKAUSKAS: Mr. Prettyman, do you want to clarify the record? When you say Estonians, that is a very generic term.

Did you want to ask him about the first or the second-generation Estonians, or are you referring to Estonian displaced people?

BY MR. PRETTYMAN:

Q What do you think of when you think of the Estonian

community, the Estonian emigres? Is this first-generation people you are thinking of? What does it generally include?

A Estonians.

Q These are people who either were born there or whose parents were born there?

A Parents born there or who feel themselves Estonians.

Q When you say 20,000 people, those are the people that you are thinking of?

A Yes.

Q Now, I am asking you out of that 20,000-man Estonian community, how many do you think would be familiar in any way with you and your activities?

A About maybe 10,000 or more.

Q Those 10,000, I take it, are basically split into two groups?

A Yes.

Q Those who believe you and those who don't?

A Yes.

Q How many do you say believe you?

MR. STANFORD: This is speculative.

MR. PRETTYMAN: Of course it is; it's his own judgment.

THE WITNESS: That's true.

BY MR. PRETTYMAN:

Q You do have an opinion on that subject?

A Yes.

Q I am asking you for that opinion.

A Half and half.

Q 10,000 believe you, and 10,000 don't believe you?

MR. STANFORD: He said that only 10,000 were in the community who were familiar with his story.

MR. PRETTYMAN: You are right.

BY MR. PRETTYMAN:

Q 5,000 believe you, and 5,000 don't?

A That's a question.

Q Your own judgment and your own opinion.

A He has made great harm with that slander.

Q Have you heard that Mr. Raus has been making the statements which you attribute to him to anyone other than those that you mentioned in your complaint?

A Oh, yes. He has written a letter. I have seen that letter which causes these rumors to spread more.

Q And to whom did he write the letter?

A To one Mr. Magi. *Mälgä*

Q What is his first name?

A I don't know.

Q When was this letter sent?

A I don't know.

Q Was it sent before your American tour or afterwards, or quite recently, or what before the complaint was filed, or what?

A Long before the complaint was made.

Q Long before the complaint?

A Yes.

Q And did he make basically the same accusations in this letter of which you are complaining in your complaint?

A Yes; that I am a very suspicious man, and you surely -- as I can recollect that -- you surely know that he wrote about these things.

Q What things?

A Rumors that I am a suspicious man. You tell these rumors, and others, too, to other people, too.

Q Tell the rumors?

A Yes; the rumors.

Q That is what he said in the letter?

A Yes, I believe so.

Q How about since your complaint has been filed, have you heard that Mr. Raus has been telling anyone these same things?

A Yes.

Q What have you heard there?

A One acquaintance of mine asked Mr. Raus, "Why do you spread these rumors about Heine? I know that man, and I never believe that he such a Communist spy, or such a guy," and then Mr. Raus answered, "I know that, I have my source of information."

Q Wait a minute.

A "Heine, he is a very suspicious person."

Q And I know that he is a what?

A "He is a suspicious person."

Q And that he has his sources of information?

A Yes.

Q Who did he tell that to?

MR. STANFORD: That sounded as if you were making it appear that Erik had his sources of information.

THE WITNESS: No. He, Raus, has.

BY MR. PRETTYMAN: :

Q Raus told the other man that he, Raus, had his sources of information?

A Yes.

MR. STANFORD: It sounded like a continuation of the quote.

BY MR. PRETTYMAN:

Q And to whom did he tell that?

A To one Mr. Walli -- I can get the name.

MR. RASKAUSKAS: Do you mind if I suggest something to refresh his recollection, if he remembers the date and place.

BY MR. PRETTYMAN:

Q Yes. Do you remember the date and place?

A That was -- what day is today?

Q Today is the third of March.

A I don't know. That must have been on --

MR. RASKAUSKAS: Was it Saturday?

THE WITNESS: Saturday; yes.

BY MR. PRETTYMAN:

Q You learned about this on Saturday?

A Yes. I learned about it on Saturday.

Q Who did you hear it from on Saturday? Surely you can remember who you heard it from on Saturday.

A I can't remember the name. I have a very bad memory of names. The first name is Walli; Walli Kunnapa.

Q Where did he tell you this?

A He was in the evening at an Estonian festival here in Baltimore, and Mr. Raus was there, too.

Q I am asking you when this gentleman told you that Mr. Raus had said this to him.

A Mr. Kuklane informed me about that.

Q Now, Mr. Kuklane told you that Mr. Kunnapa had told him?

A Yes.

Q That Mr. Raus had told Mr. Kunnapa?

A Yes.

Q When did Mr. Kuklane give you this information?

A Sunday.

Q Sunday?

A Yes.

Q And when did he say that Mr. Kunnapa had given him this information?

A Saturday.

Q The previous day?

A Right away that Mr. Raus told that Mr. Kunnapa he went to --

Q You are still one step away from me.

Mr. Kuklane told you on Sunday this information?

A Yes.

Q Mr. Kuklane told you that Mr. Kunnapa had told him this, had told Mr. Kuklane this when?

A Saturday.

Q Now, Mr. Kuklane had told you that Mr. Raus had



this information to Mr. Kunnapa when?

A Saturday.

Q So, on Saturday allegedly Mr. Raus gave the information to Mr. Kunnapa, and Mr. Kunnapa gave the information to Mr. Kuklane, and on Sunday Mr. Kuklane gave the information to you?

Have I stated that correctly?

A Yes.

Q What is Mr. Kunnapa's first name?

A Mr. Kunnapa?

Q Mr. Kunnapa, what is his first name?

A Valdemar.

Q Where does he live?

A In Baltimore.

Q And this allegedly took place at some kind of festival?

A Yes.

Q Do you know Mr. Kunnapa?

A I know him.

Q Is he an Estonian?

A Yes.

Q Have you known him back in Estonia?

A Yes.

Q Where had you known him in Estonia?

A We were in the same school.

Q Was he a guerrilla?

A No.

Q Was he captured by the Russians?

A No, I don't think so. He arrested me in 1940.

Q An Estonian arrested you in 1940?

A Yes. Do you want me to make that thing clear?

Q Yes; I wish you would.

A When the Russians took over Estonia, then maybe a month or two, they didn't fire and arrest at all many Estonian officials in this category of policemen until they put in there only Communist police. And on one occasion when I distributed these small ribbons in Estonian colors, one Communist official that was -- very many people were there, many schoolboys, and I was there -- and all eagerly took from us these ribbons to carry like a silent protest against the Red Revolution there. One Soviet official that I remember that name -- I believe that is Max Laason -- came to our group of schoolboys, and then cried hysterically, "Stop that! Stop that! That is counterrevolutionary." I am pretty calm usually, but then I maybe for the first time I went half crazy and struck that man in the face.

Q Struck which man?

A That Max Laoson.

Q He was Russian or Estonian?

A Estonian, a pro-Communist.

Q What job did he have?

A He was society official or something; I don't remember that exactly, what job he had.

Q He had been installed by the Russians?

A Yes.

Q Or he had held the job before?

A No. Installed.

Q He had been specifically installed in that job?

A What?

Q He had been installed in the job by the Russians?

A Yes.

Q So, you assume that he was pro-Communist?

A It was known already in early days in Estonia when he lived in Estonia that he had very strong left-wing sympathies.

Q And when the Russians found this out they put him in the job --

A I believe he was one of the men who helped to make that occupation.

Q What do you mean, he was a kind of guiding?

A He was a Communist.

Q And he had<sup>helped</sup>/the Russians take over, you mean?

A Yes.

Q And he was from Tartu?

A Yes. And he came to that place where we distributed these ribbons, and I struck him in the face, and he called some policeman, as I said this time they were Estonian police who were still on duty. And one of these policemen was Mr. Walli Kunnapa.

Q Kunnapa (mispronouncing the name)?

A No. Kunnapa (enunciating correctly).

Q He arrested you?

A Laason ordered him to arrest me.

Q And they did?

A They did.

Q When was that?

A I believe it was in June 1940.

Q Mr. Heine, I specifically asked you too, on this record whether you had ever been arrested prior to the time you surrendered in August 1940, and you said no.

A Can I go on?

Q Yes.

A They put their hands on me, and we went from that place into another street, and then they freed me and said, "You can go."

Q How many were there?

A Two.

Q Who was the other one?

A I don't know now.

Q Was he an Estonian?

A Yes.

Q But you didn't know him?

A No.

Q And he didn't know you?

A No.

Q But he let you go?

A Mr. Walli Kunnapa knew me, and they let me go.

Q Did they get in trouble for that?

A I don't know that; probably not.

Q Did you ever see that gentleman again, Mr. -- what is the name of the quisling?

A Max Laoson.

Q Laoson?

A Yes.

Q Did you ever see him again?

A I believe never.

Q Have you ever seen him from the date that you punched him in the face to the present time?

A No.

Q You never have?

A No.

Q Do you know what happened to him?

A He is still there alive; he is a Soviet official, a minister.

Q How do you know that?

A In Estonian newspapers there are sometimes news from Estonia what they have taken from Estonian newspapers in Russia, and there is, sometimes there has been an appearance of his name.

Q And during the many times that you came back to Tartu thereafter, you never saw Mr. Laason again?

A No.

Q Have you told us all of the times since the filing of the complaint that you have heard about where somebody has told you that Mr. Raus said anything derogatory about you?

A Almost in every town I went in the United States.

Q That's before the filing of the complaint?

A I didn't hear that.

MR. RASKAUSKAS: He means since this suit was  
filed?

THE WITNESS: I am sorry.

MR. PRETTYMAN: I can understand.

THE WITNESS: I am sure I have heard a couple of  
times that.

BY MR. PRETTYMAN:

Q Who did you hear it from?

A I believe one was Mr. Graebbi.

Q What did he tell you?

A That Mr. Raus stands on his accusations, that I am  
a Soviet spy.

Q When did Mr. Graebbi tell you that?

A I have to look up when was Estonian festival in  
Toronto.

Q This was after the suit was filed?

A Yes.

Q And you don't remember what month that was?

A I believe it was in spring, that is for sure.

Q Spring of 1964?

A Yes; spring 1964.

Q He told you that in Toronto?

A Yes.

Q He was there for the festival?

A Yes.

Q Or does he live there?

A No. He was there for the festival.

Q When did he say he had heard this from Mr. Raus?

A His best friend of Raus, he says so.

Q And he was telling you that Mr. Raus called you  
a spy?

A Yes; that he believed that I am a spy.

MR. RASKAUSKAS: For purposes of clarification, do  
you mean from the date this suit was filed?

MR. PRETTYMAN: Until the present time.

MR. RASKAUSKAS: In November of 1964, or do you  
mean from the first date mentioned in the suit, which was  
November 9th, 1963?

MR. PRETTYMAN: Very well, done, Mr. Raskauskas.

BY MR. PRETTYMAN:

Q Let's say from the date mentioned in the complaint  
then.

A That is the 9th of November --

Q Right.

A -- '63?



Q Right.

A After that?

Q Yes; since then.

You were telling me about this conversation with Mr. Graebbi, and when did Mr. Graebbi say that Mr. Raus had told this to him, or did he say that Mr. Raus had told it to him?

A I believe he told him yes.

Q He told you that Mr. Raus --

A Still believes I am; yes.

Q Had Mr. Raus told Mr. Graebbi this?

A They should have had many conversations.

Q I know; but we are not talking about what they should have had; I am talking about what Mr. Graebbi told you.

Did he tell you that Mr. Raus told you this?

A Yes.

Q When did he, Mr. Raus, tell that to him?

A That I don't know.

Q And the purport of the statement was you were a spy?

A Communist or something like that.

Q Well, a spy or a Communist, or just a suspicious

person, or what?

A I have to recollect that.

He looked me up there, as I remember, in that festival.

Q Mr. Graebbi did?

A Yes. And prior to that I believe I wrote Mr. Graebbi a letter telling that what is he talking about, Raus; he is making so much harm in our fight against communism.

Q You asked him to intervene, in other words, as a mediator?

A Yes. "You are his best friend, and I am satisfied when he apologizes publicly, and let's forget the matter then."

But I have to protect my integrity.

Q Did you get a reply from that letter?

A No.

Q But he looked you up when he came to the festival?

A Yes.

Q What did he tell you?

A That Raus still believes that I am a Communist.

Q In other words, what he told you was the result of the conversation that you had invited him to make; right?

A Yes.

Q Now, are there any other occasions?

A There were, but I don't remember now.

Q Let's think now. You tell me all the people that have told you what Mr. Raus has said.

A I don't remember.

Q Since November, then, has anybody?

A So many have told that, that I don't remember.

Q Mr. Heine, that is a very broad statement.

You tell me who has told you this.

A That is, again, through another person.

Q What do you mean "through another person"?

A When I was in on that Committee of Estonian, the council there, in Canada, some people had written to Mr. Orum, a member of that Central Committee in Canada.

Q Mr. Raus had written to them; is that what you are saying?

A May I go on, please.

There was stated that some Mr. Raamot -- Ilmar Raamot I believe is his name -- spread rumors that I am a Communist spy and agent. And Mr. Orum asked me do I want to--

MR. RASKAUSKAS: Refute?

THE WITNESS: No; give that matter to the court. But I didn't say that; I did say that, "Let the man go," and I didn't give him that case into court.

BY MR. PRETTYMAN:

Q Now, what has that got to do with Raus?

A Allegedly he had heard that from Mr. Raus.

Q Mr. Raamot had?

A Yes.

Q Did he tell you that?

A Not Mr. Raamot; Mr. Orum told me that.

Q Mr. Orum told you Mr. Raamot was saying things about you, and that Mr. Raamot had gotten them from Mr. Raus?

A Yes.

Q When did you hear this?

A I have got to look that date up. I have it at home.

Q Was this the festival again in Toronto?

A No.

Q Where was it?

A That was after that, I believe. I have to look that up.

Q Where was it?

A In Toronto.

Q In Toronto?

A Yes. In the Estonian House.

Q When did they say Mr. Raus had made the statements?

A I don't remember.

Q They didn't tell you?

A No.

Q Any other times?

A There are, but I can't recollect them now.

Q So that we can move along, Mr. Heine, why don't you be thinking about that, if you can, and I will ask you these other questions because I know you want to get away.

Did you ever lecture to the United States Special Forces?

A Oh, yes.

Q When did you do that?

A I don't remember the date.

Q What year?

A Excuse me?

(Witness gives counsel a piece of paper).

Q Is this the invitation asking you to speak before them (indicating)?

A This is a letter of thanks.

Q At whose invitation did you go to speak there?

A I believe it was Mr. Parming.

Q And it was just this one occasion in October 1961?

A Yes.

Q I take it you went to Camp Kilmer, New Jersey?

A Yes. It's there, yes.

Q And you spoke to this group?

A Yes.

Q What was the general purport of this speech?

What were you talking about?

A About these guerrilla activities, about the Russians, how they attack. And then, how guerrillas, Estonian guerrillas, tried to protect themselves, and in this way general information.

They asked for examples:

"How did you get medical care?"

Whether the best medicine was urine or sap or resin; that kind of thing.

Q What is the Estonian Cultural Film group? Do you know any group with a name like that?

A Estonian Culture. That is in Estonian, "Esti Kultur Film."

Q How is that translated?

A Estonian Cultural Film. When we began that movie I was making there with one, two, three, four men there, and then there was that group, amateur group, that called themselves

the Estonian Cultural Film group who began to making that film.

Q Was that incorporated?

A No.

Q And did the four men own the film? Did they put up the money for the film?

A Only I.

Q Only you put the money up?

A Yes.

Q What was the purpose of this group?

A There was one Mr. Magi, he was the operator. Then there was Mr. Raptas, Jan Raptas, he was the technical man. Then there was Mr. Lais.

Q Did these four men get paid?

A No.

Q In other words, this name was simply an informal name that you gave to a group; it had no legal status?

A No.

Q And you were the only person who put in the funds?

A Yes.

Q Did the film portray the actual exploits of you and your group, that is your group of ten?

MR. RASKAUSKAS: I object to the question as having

been previously asked.

MR. PRETTYMAN: It hasn't been previously asked.

THE WITNESS: It has been. I remember that.

MR. PRETTYMAN: I would appreciate being able to finish the question.

BY MR. PRETTYMAN:

Q Did the film portray the actual exploits of you and your group of ten guerrilla fighters, or did it in part portray the activities of other groups of guerrillas?

A Yes; both.

MR. RASKAUSKAS: I object. That question has been asked.

BY MR. PRETTYMAN:

Q Partially your group and partially things that you had heard about other groups?

A Yes. From my own men and so on.

Q Things you had heard?

A Yes.

Q Now, when did the meetings take place at which you recall being called a spy by Heino Joe, in Canada?

A I was not there myself in that meeting.

Q You heard about it right away, I assume?

A Yes.



Q What month did that take place?

A I have to look that up.

Q When you get to that place in the record, if you have a record of that, would you put the month in?

A Yes.

Q I believe you said you still have in Canada the document given to you by the West Germans for identification purposes?

A Yes.

Q Have you ever taken a polygraph test, a lie-detector test?

A No; never.

Q You never have?

A No.

Q Were you ever a member of the Hamilton War Veterans' group?

A Hamilton?

Q Yes.

A No, I don't remember that.

Q Where did your mother send your birth certificate to you, Mr. Heine? I think you said that she sent it to you overseas; right?

A Yes.

Q Where did she send it?

A I believe it was Oldenburg.

Q That's where you received it?

A Yes.

Q She knew where you were then?

A Yes.

Q Do you have any income other than your salary from your job and the income you received from your speaking tours?

A I have only my salary; no income from speaking tours.

Q You received \$200, I believe you said, the other day, didn't you?

A What?

Q Didn't you say you had received \$200 from your -- I am sorry that was from the film.

A No.

Q It was from your speaking tour?

A No. It was from the book, yes.

Q It was from the book?

A Yes.

Q The \$200, that was from the book?

A I believe so.

Q Well, now, was it or wasn't it?

A It was, yes.

Q The \$200 was from the book?

A Yes.

Q You never received any money from the speaking  
tour?

A No.

Q You never received any money from your film?

A I am at a loss.

Q You are what?

A I am in debt with the film.

Q Did they pay your expenses for your trip?

A I paid for my trip myself.

Q You paid for your trip yourself?

A Yes.

Q Have you ever had any broken bones, Mr. Heine?

A Here I think (indicating), yes.

Q In your right hand in one of the fingers?

A Yes.

Q Where did you receive that?

A I don't really know now myself, but I believe  
it was in prison camp.

Q Which prison camp?

A I don't remember that.

Q Mr. Heine, I think we asked you pretty carefully about the injuries you had received in the prison camps, but I don't think you mentioned anything about a broken bone?

A You can't see nothing. I don't really remember when I got that.

Q You don't remember which prison camp it was that they broke your finger?

A No.

Q You are sure it was in a Russian prison camp?

A Yes; and that was in a Russian prison camp, too (indicating).

Q What is that?

A This finger is disfigured (indicating).

Q What is wrong with the finger?

A I can't describe that. How do you describe that?  
The tip of the finger is disfigured.

Q How did they do that?

A In Tallinn, in that prison, prisoner of war camp.

Q They disfigured your finger?

A No; the train wagon squeezed that.

Q This was while you were working?

A Yes.

Q This was a working accident?

A Yes.

Q The Russians didn't do that to you?

A No.

Q How about the finger? Did you get that in some kind of working accident?

A Yes.

Q The broken finger I am talking about.

A Yes.

Q Any other broken bones?

A No.

Q Have you ever heard of a man named Arthur Haman?

A Haman you mean (pronouncing correctly)?

Q Yes.

A Yes; I have heard of him.

Q Did you ever meet him?

A No.

Q You have never seen him?

A No.

Q He is a pretty well-known man in the Estonian community, isn't he?

A Oh, yes; a very well-known man.

Q Why is that? What do you hear about him?

A Because he went back to Russia.

Q Is he an Estonian?

A He must have been an Estonian.

Q You don't know whether he was or not?

A No, I don't know.

Q And you say he went back to Russia?

Did he come from Russia?

A Yes. I believe I read that story in the Estonian newspaper.

Q That's the only thing you have ever heard about him, what you have read in the Estonian newspaper?

A Yes.

Q You haven't talked to your fellow Estonians about him?

A No; I don't believe so.

Q Have you ever written to him?

A No.

Q Or received any mail from him?

A No.

(At this point in the proceedings, Mr. Connolly returned to the deposition room).

MR. CONNOLLY: One thing I am concerned about before we close the deposition is the documentation that is in

the possession of Mr. Heine.

He has a birth certificate; he has a document that was provided him in West Germany at Oldenburg presumably -- well, I shouldn't say "presumably;" he has some correspondence from people inside Estonia.

We would like to have copies of that material, and we would be happy to pay for them.

MR. RASKAUSKAS: We would like you to send us a letter and itemize what you would like to have, Mr. Connolly, if you will.

MR. STANFORD: And every effort will be made to accomodate you on that, but I think our only reluctance with any proposals made in this deposition, as Ernie has said, is the fact that any commitment here would appear to be a promise on our part. You will be assured we will make every effort to do that, and we won't withhold anything, but if we don't have it for any reason and when it cannot be obtained, we cannot be bound.

MR. CONNOLLY: I understand. The record speaks for itself.

Now, when this deposition is typed, I do not care to waive signature in this case, and over such a long period of time you would not care to waive signature either. I do not

care to waive signature.

I would suggest that Mr. Poe, when he has transcribed the deposition, that he submit it to you, and you send it to Mr. Heine for his review, and let him sign it and make the interlineations that we have requested.

MR. RASKAUSKAS: That's right.

MR. CONNOLLY: And that he make any corrections in it in accordance with the Federal Rules, that will explain it.

MR. RASKAUSKAS: You want it notarized in Canada?

MR. CONNOLLY: You don't have to do that, he is under oath, so when he signs his name to it, he should consider himself bound to the oath he took at the outset of this deposition.

That's all.

MR. RASKAUSKAS: No questions at this time.

- O -

I have read the foregoing pages 1, through 923, inclusive, which contain a true and correct record of the answers made by me to the questions therein recorded.

NAME \_\_\_\_\_

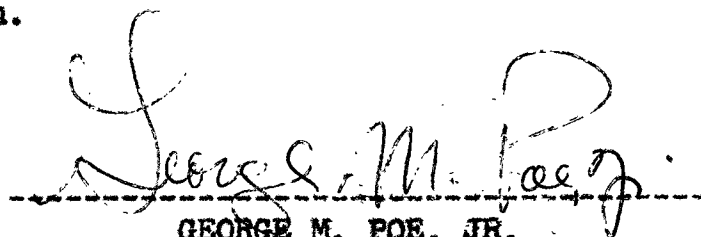
DATE \_\_\_\_\_

- O -



## CERTIFICATE OF NOTARY PUBLIC

I, George M. Poe, Jr., a Notary Public in and for the District of Columbia before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me in shorthand at the time and place mentioned in the caption hereof and thereafter reduced to typewriting under my supervision; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and further that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

  
-----  
GEORGE M. POE, JR.  
Notary Public in and for  
the District of Columbia.

My commission expires  
December 14, 1968.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

EERIK HEINE

vs.

JURI RAUS

Civil No. 15952

May 13, 1966

**TRANSCRIPT OF PROCEEDINGS**

FRANCIS T. OWENS  
Official Reporter  
514 Post Office Building  
BALTIMORE 2, MARYLAND  
Saratoga 7-7126

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

- - -

EERIK HEINE

vs.

Civil No. 15952

JURI RAUS

Baltimore, Maryland  
Friday, May 13, 1966

The above-entitled matter came on for hearing  
before His Honor, Roszel C. Thomsen, Chief Judge, at three  
o'clock a.m.

APPEARANCES

For the Plaintiff:

MR. ERNEST C. RASKAUSKAS  
MR. ROBERT J. STANFORD

For the Defendant:

MR. PAUL R. CONNOLLY  
MR. E. BARRETT PRETTYMAN, JR.

Also present representing the United States  
Government, Mr. Thomas J. Kenney, United States Attorney;  
Mr. Kevin T. Maroney, Attorney, Department of Justice; Mr.  
Lawrence R. Houston, General Counsel, Central Intelligence  
Agency.

PROCEEDINGS  
- - -

1  
2 MR. CONNOLLY: Your Honor, with respect to  
3 why we were waiting, I think an explanation has been made  
4 to you by Mr. Kenney.

5 THE COURT: Well, are you ready to go ahead?

6 MR. CONNOLLY: Yes, Your Honor.

7 THE COURT: I think the first thing to do  
8 since I understand we are now going to hear argument on the  
9 motion for summary judgment filed by the defendant is to  
10 know exactly what is the record in this case.

11 Here are some papers that were filed this  
12 morning, I gather, May 13th, two new affidavits.

13 Have you seen them before?

14 MR. CONNOLLY: I just saw them within the  
15 last three or four minutes, Your Honor, just before we  
16 started.

17 THE COURT: I thought they had been served.

18 MR. RASKAUSKAS: No, Your Honor. I suggested  
19 that I was going to serve them when I saw Mr. Connolly in  
20 court.

21 THE COURT: I thought you said you had  
22 served them?

23 MR. RASKAUSKAS: No.

24 THE COURT: Well, maybe you better read them.  
25

1 MR. CONNOLLY: I have very quickly.

2 In order to save time, Your Honor, my first  
3 reading made me think that they were intended to try to  
4 raise a dispute of fact on the basis that both of these  
5 people quote Allikas and Keerd quote, I think Mr. Raus is  
6 saying the information came from the Federal Bureau of  
7 Investigation.

8 THE COURT: That is right.

9 MR. CONNOLLY: Is there anything other than  
10 these affidavits that you care to rely on as to this motion,  
11 in other words?

12 MR. RASKAUSKAS: No. They are cumulative  
13 to the one that is in the file filed by Mr. Kuklane, except  
14 one of these is the one from Mr. Allikas which refers to  
15 the minutes of the meeting.

16 THE COURT: The one that has the minutes of  
17 the meeting?

18 MR. CONNOLLY: Yes, alleged copy of the  
19 minutes.

20 I understand, although it is not important,  
21 I understand that there are two sets of minutes kept by  
22 this New York Branch.

23 THE COURT: Well, do you want to put both  
24 sets in?

25 MR. CONNOLLY: I do not have them here.

1 THE COURT: Well, it would not make any  
2 difference whether they are for the summary judgment.

3 MR. CONNOLLY: No, I do not think it is that  
4 important.

5 THE COURT: So far as summary judgment is  
6 concerned as any disputed questions of fact must be resolved  
7 against you.

8 MR. CONNOLLY: Correct, sir.

9 THE COURT: So we have to limit it for the  
10 sake of the motion for summary judgment to that.

11 Now, this file is getting fairly thick and I  
12 would like to be sure just what the parties feel is before  
13 the Court for decision here. Certainly the complaint is.

14 Let's make a list just to be sure because  
15 there are some memoranda which have exhibits attached to  
16 the memoranda. It is my understanding those exhibits are  
17 not before the Court, something attached to an unsworn  
18 memorandum.

19 You all filed an unsworn memoranda which has  
20 some exhibits attached and I did not know whether you  
21 thought you were bringing them before the Court or not, and  
22 I think you had better be sure, and that is one of these  
23 things, and I wanted to get it clarified as to what is  
24 before the Court and what is not before the Court.

25 MR. RASKAUSKAS: Well, may I address myself

1 to that point, Your Honor?

2 THE COURT: Yes.

3 MR. RASKAUSKAS: Under Rule 56, as I under-  
4 stand it, the Court may consider all material. I can  
5 submit it to the Court, and I do not think there is any  
6 stricture in the rules which requires each and every exhibit  
7 to be under oath.

8 THE COURT: Well, the exhibit does not have  
9 to be under oath, but I mean it has to be vouched for.  
10 Some of them have to be vouched for by somebody, and there  
11 may not be any dispute about the materials which are  
12 attached to your papers, and the Court can consider them  
13 without having to wait.

14 It says:

15 "The judgment shall be rendered forthwith if  
16 the pleadings, depositions, answers to interrogatories,  
17 and admissions on file, together with an affidavit,  
18 if any, show that there is no genuine issue as to  
19 any material fact and that the moving party is  
20 entitled to a judgment as a matter of law."

21 Now, the ruling in every circuit, I think  
22 except the Third Circuit, and maybe they have gotten in line  
23 recently is that the allegations of pleading are not  
24 sufficient to overcome an affidavit, I mean an ordinary  
25 unsworn pleading.

1 MR. CONNOLLY: Your Honor, is that  
2 Subsection (e) of Rule 56?

3 THE COURT: Yes.

4 MR. CONNOLLY: Which I think is just  
5 contrary to what Mr. Raskauskas just represented.

6 THE COURT: "Supporting and opposing  
7 affidavits shall be made on personal knowledge, shall  
8 set forth such facts as would be admissible in  
9 evidence, and shall show affirmatively that the  
10 affiant is competent to testify, and so forth, sworn  
11 or certified copies of all papers or parts thereof  
12 shall be attached thereto or served therewith. The  
13 Court may permit affidavits to be supplemented or  
14 opposed by depositions."

15 Well, certainly the answer, the complaint and  
16 the answer are before the Court, and then there are a great  
17 many motions for the taking of depositions and so forth,  
18 which do not seem to have any real materiality except the  
19 deposition of the defendant Raus which was taken.

20 There are some memoranda, and of course so  
21 far as they still deal with matters which are before the  
22 Court on pleadings I will consider all of the memoranda.

23 There is a statement, or there is a  
24 memorandum filed by the defendant in January '65 together  
25 with Raus' affidavit.



1 Now, do the plaintiffs want that affidavit in?

2 MR. RASKAUSKAS: Very definitely.

3 THE COURT: You want that and the position  
4 papers in that affidavit to be considered. So that the  
5 memorandum of the 19th of January 1965 and the Raus affidavit  
6 are to be considered as before me.

7 MR. CONNOLLY: The memorandum would not be,  
8 would it, Your Honor? That is not sworn to.

9 THE COURT: The memorandum is not but the  
10 affidavit is.

11 MR. CONNOLLY: The affidavit is.

12 THE COURT: Well, let's say that the Raus  
13 affidavit with the memorandum on January 19th.

14 Then there is a stipulation that does not have  
15 much to do with it. There are interrogatories which have  
16 never been answered. The interrogatories have not been  
17 answered.

18 MR. STANFORD: No, we received no answers,  
19 Your Honor.

20 THE COURT: I gather that/for the purpose of this  
21 motion for summary judgment, they are based entirely on the  
22 point of privilege. You have gone as far as you can  
23 practically go under the Court's ruling in the deposition of  
24 Raus; is that right?

25 MR. STANFORD: Your Honor, we do not hold that

1 the sole consideration here is the Barr v. Matteo doctrine.  
2 We say that there are genuine issues of fact which would be  
3 outside the purview of that governmental immunity doctrine.

4 THE COURT: I understand that, but I mean,  
5 you are satisfied to go ahead with the motion for summary  
6 judgment today without pressing further for answers to  
7 interrogatories?

8 MR. STANFORD: Yes, Your Honor, we are.

9 THE COURT: All right.

10 MR. STANFORD: This does not mean that we are  
11 waiving the answers to those interrogatories. We think it  
12 is improper, but we think that the Government has taken a  
13 stand whereby they will not respond to the interrogatories.  
14 So that they have in effect--

15 THE COURT: So that in effect it is the same  
16 point that stops the--

17 MR. STANFORD: That stopped the deposition  
18 of Mr. Raus.

19 THE COURT: That stopped the deposition of  
20 Raus, that would stop any interrogatories that would help  
21 you?

22 MR. STANFORD: Yes, sir.

23 THE COURT: That is what I meant that one  
24 ruling covers in effect both of them. All right.

25 Then there are three, I think, affidavits of

1 Mr. Helms. I think there are three, aren't there?

2 MR. CONNOLLY: Yes, Your Honor.

3 THE COURT: In which there is the formal  
4 claim of privilege. Then there is this memorandum of  
5 points of the defendant, which I take it is just a brief.  
6 Then there is a memorandum of the plaintiff in opposition  
7 to it, which again is just a brief, I believe. I do not  
8 belittle briefs, but it has not got evidence.

9 Then you have along with it the affidavit of  
10 August Kuklane. That is to be before the Court. Is that  
11 right?

12 MR. STANFORD: Yes, Your Honor.

13 THE COURT: The affidavit of Kuklane. Then  
14 attached to that are these other documents which have not  
15 been sworn to but are filed by the defendant.

16 Are these before the Court in some way?

17 The April 28, 1965 letter from Prettyman to  
18 Raskauskas. The letter--I do not see the date. It must  
19 be the--

20 MR. CONNOLLY: From Tammark.

21 THE COURT: From Tammark?

22 MR. CONNOLLY: Tammark.

23 THE COURT: To Raskauskas, and the letter  
24 from Collins to the Court.

25 Are they supposed to be before me now? Does

1       either side think that these are before me?

2               MR. RASKAUSKAS:   Yes, Your Honor.   I take  
3       the position that documentary and other evidentiary  
4       material, which these letters are, may be considered  
5       by the Court on a hearing for summary judgment, and I  
6       rely on Moore here.

7               THE COURT:   What did he say?

8               MR. RASKAUSKAS:   It says, materials on which  
9       motion may be heard.   ;The material which the Court  
10      is entitled to consider on a motion for summary judgment  
11      are the pleadings, affidavits, which meet the testimonial  
12      requirements of Rule 56(e), depositions, answers to in-  
13      terrogatories, Rule 56(e) as amended in '53, admissions,  
14      oral testimony, documentary and other evidentiary materials.  
15      The Court shall also consider facts which are the sub-  
16      ject of judicial notice, and the same reasons that warrant  
17      their use at trial warrant their use at the summary  
18      judgment hearing.

19              THE COURT:   Well, I do not understand that  
20      that means that affidavits must have all these protections  
21      and just because you put it, somebody puts it in a letter  
22      that it automatically becomes evidence without being  
23      s worn to.   That does not make sense to me.

24              I have never understood that to be the law,  
25      and I do not understand that Mr. Moore says so.

1 I see your point. He says something about  
2 documentary and other evidentiary material. I think that  
3 was the word, wasn't it? It does not say that just a  
4 letter is admitted or can be considered as being proof of  
5 the facts stated in it.

6 Now, it may be quite possible to get this in  
7 or stipulate it in, to either stipulate it in today for  
8 whatever purpose it is wanted or to find some way perhaps  
9 to get supplementary affidavits so that we will not be doing  
10 this thing piece by piece.

11 I want to get the record complete so that when  
12 I do make a ruling one way or the other I will have the whole  
13 thing and will not have to go back and do it again because  
14 in your supplemental memorandum of points you have a letter  
15 from Mr. Hoover of the FBI to Raus. I do not doubt, they  
16 seem to be copies, and they look like copies of the letterhead,  
17 and some other correspondence.

18 It may be that they can be stipulated as to  
19 competency as though there were objections as to relevancy  
20 and materiality on the issues raised.

21 Can something be done on that? I want to  
22 know what I am to consider and what I am not to consider.

23 I believe this stuff is in two lots: One,  
24 the material attached to the first memorandum of the  
25 plaintiff and the other material attached to the second.

1 MR. CONNOLLY: When you say my position, for  
2 the record, so that we will know what we are dealing with,  
3 I would object to the three documents which Your Honor has  
4 described, the letter from Barrett Prettyman to Mr.  
5 Raskauskas.

6 THE COURT: Let's take them one at a time.  
7 These are the papers attached to Document No. 13. Now,  
8 the first one is the letter from Mr. Prettyman to Mr.  
9 Raskauskas. I do not suppose there is any question of  
10 competency.

11 MR. CONNOLLY: No, it is completely immaterial  
12 to the issues. That is what I am saying.

13 THE COURT: Well, do you want that considered?  
14 I have not read it. You want that considered?

15 MR. RASKAUSKAS: Yes, Your Honor, and without  
16 belaboring the point, to restate our position, these are  
17 exhibits which tend to show to the Court that there are  
18 genuine issues of fact. Now, at the trial we will have  
19 the original documents duly authenticated.

20 THE COURT: Well, there is no question--

21 MR. RASKAUSKAS: Proven and put into  
22 evidence.

23 THE COURT: Well, there is no question of  
24 authentication. You do not need an authentication of a  
25 photostat or a Xerox copy, or whatever it is, of Mr.

1 Prettyman's letter to you. He certainly admits that this  
2 is a copy of his letter, and it is his calling on you for  
3 something, and I suppose it might be evidence on your claim  
4 of waiver.

5 He asked you to produce certain things, and  
6 if you say you waived it, this might be evidence on that  
7 point.

8 Now, as to this document, the letter of 28  
9 April '65 I would say, you object to it on relevancy and  
10 materiality.

11 MR. CONNOLLY: Your Honor, and also because  
12 I think it also requires an explanation. Just to leave  
13 it stay there unexplained, and the circumstances under which  
14 the letter was sent, I think it is misleading.

15 THE COURT: Well, I think if they want it in,  
16 if they have been operating under a mistaken theory of the  
17 law of what may be considered on motion for summary  
18 judgment I would not want to hold them to that, and I think  
19 we ought to try to get them in.

20 I mean if Mr. Raskauskas thinks or has  
21 thought that just by attaching this to his memorandum it  
22 became admissible to be considered, that something must be  
23 considered on a motion for summary judgment I certainly  
24 would not want him foreclosed from any benefit he may have  
25 of it by not having it part of a document which was sworn

1 to.

2 MR. RASKAUSKAS: May I say one thing which  
3 may clear this up, Your Honor, from our point of view?  
4 The letter and the documents, with respect to them we take  
5 the position the Court is not going to weigh these as  
6 to credibility.

7 THE COURT: That is right.

8 MR. RASKAUSKAS: As evidence. The Court will  
9 consider these exhibits to determine whether or not there is  
10 an issue of fact that must go to trial.

11 THE COURT: Well, I know but you do not  
12 consider that in the law unless it is presented to the  
13 Court in some proper manner. Even alleging it in your  
14 complaint or the defendants alleging it in their answer is  
15 not something which can overcome an affidavit according to  
16 the rule, as I say, I believe of every Circuit except the  
17 Third Circuit.

18 MR. CUNOLLY: Your Honor, I would have no  
19 objection to it going in providing Mr. Raskauskas would  
20 agree that the letter was a letter sent to him prompting  
21 him to give us information which he promised to give us  
22 during the course of Mr. Heine's deposition; and two, that  
23 the information which was called for in the letter, and  
24 which he promised to furnish in the course of Mr. Heine's  
25 deposition, had not indeed been furnished.



1 MR. RASKAUSKAS: I never promised Mr.  
2 Connolly anything, and if we have the original copy of the  
3 deposition we can look at it. I said I would informally  
4 submit these materials, and we did. We looked around.  
5 We could not find my client's war medals because he was in  
6 three Soviet camps. He did not carry them around, and  
7 that is why I did not give them to Mr. Prettyman.

8 MR. CONNOLLY: Well, that being so, Your  
9 Honor, I think Mr. Raskauskas will have to proceed as best  
10 he knows how to prove the matter.

11 MR. RASKAUSKAS: I can do that.

12 THE COURT: Well, all right. It does not  
13 seem to me that that is--

14 MR. CONNOLLY: Material.

15 THE COURT: On the question of materiality  
16 on this present issue.

17 The point that does seem to me to have some  
18 basis on the issue of waiver is that the deposition, Heine's  
19 deposition was taken, and certain material was requested,  
20 and certain material was supplied, and if some material has  
21 not been supplied it is not before me now or why it was  
22 not. So I think we can dispose of that letter in that way.

23 Now, the next one is a letter which is from a  
24 man named Tammark to Mr. Raskauskas.

25 Now, what purpose is this letter--I have not

1 read it. I may have read it at one time. I have not read  
2 it recently.

3 For what purpose do you want the Court to  
4 consider that letter?

5 MR. RASKAUSKAS: Well, the purpose we are  
6 going to ask the Court to consider that letter is that a  
7 man by the name of Mr. LaVenia that went out and saw Mr.  
8 Tammark and told him that he has interviewed thirty-three  
9 people around this country and Canada, and we attempted to  
10 depose Mr. LaVenia the other day, and I understand from the  
11 reporter that he wanted to read and sign his deposition,  
12 and it is not filed with the Court.

13 I have a copy of it here, and we learn now  
14 that this man is associate counsel in this case. He has  
15 been retained by Mr. Connolly. This Mr. LaVenia is the  
16 same man that while we were taking the deposition of Mr.  
17 Heine here was up at Mrs. Heine's house trying to get into  
18 her house to see her.

19 So we think it is very relevant.

20 THE COURT: Well, then, you ought to have it  
21 sworn to to be before me. I can't just take a letter to  
22 you from a man named Tammark as proof of facts in a case.

23 I do not know. In the first place I do not  
24 know whether it is really a letter from him or not. There  
25 is nothing, just that a man is out in Wisconsin, and he

1 writes you a letter or purports to be a man in Wisconsin,  
2 and he writes you a letter.

3 Now, no doubt he did, but I do not understand  
4 that that is material which can be considered on a motion  
5 for summary judgment apart from some sort of a stipulation  
6 waiving competency.

7 Now, if Mr. Connolly will agree that it can  
8 be considered to the same extent as if it was sworn to as  
9 an affidavit for summary judgment without waiving his right  
10 to have the opportunity to cross-examine the man before it  
11 might be considered on the merits, that would help to  
12 expedite matters.

13 MR. CONNOLLY: I will not, sir.

14 MR. STANFORD: We ask then, Your Honor, that  
15 it be considered as if it was sworn to and based, of course,  
16 upon the fact that we will submit within as short a time  
17 as possible that same letter in affidavit form.

18 THE COURT: You will supplement it with an  
19 affidavit?

20 MR. STANFORD: Yes, sir.

21 THE COURT: And I will assume that you will.

22 MR. STANFORD: Yes, sir, and if that is done,  
23 well, of course, then we have to proceed further.

24 THE COURT: Yes, that is the practical way.  
25 Mr. Tammack to be supported by affidavit.

1 MR. RASKAUSKAS: In view of that, Your Honor,  
2 I request that the Court strike all statements and  
3 testimony, unsworn testimony, given by the various counsel  
4 from the floor, including Mr. Houston's testimony the last  
5 time that Raus was paid directly and indirectly.

6 THE COURT: I thought that was accepted in  
7 lieu of testimony. Those statements were accepted.

8 Well, let's see. Is Mr. Houston here. All  
9 right. Let Mr. Houston come on and take oath, if he will,  
10 that those statements are true.

11 We are not accustomed to requiring that in  
12 this Court, but counsel frequently make statements of fact  
13 which are accepted by counsel, other counsel to the same  
14 extent as if they were testimony, with the understanding  
15 that they can be cross-examined, but if you want to have  
16 that fact--

17 MR. RASKAUSKAS: Well, Your Honor, my  
18 objection last time was that it was not susceptible to  
19 cross-examination. I was asking Mr. Raus these questions.  
20 It has nothing to do with Mr. Houston's credibility. It is  
21 the fact that a gratuitous statement was made in this Court,  
22 and I was precluded from any inquiry.

23 THE COURT: No. I thought you accepted the  
24 fact of how he was paid. That is, there was certain  
25 testimony made as to his being paid.

1 MR. RASKAUSKAS: I accepted the fact, Your  
2 Honor, that Your Honor made the request if we required the  
3 solemnity of an oath to use this more or less as an  
4 addendum to Mr. Helms' third affidavit rather than to ask  
5 Mr. Helms to come up with a fourth affidavit, and I said  
6 we make all of our objections other than requiring that this  
7 be sworn to.

8 THE COURT: All right.

9 MR. RASKAUSKAS: Now, I do not require that  
10 it be sworn to today either; but my position is that it  
11 should not be considered.

12 I am only asking the Court not to consider  
13 any of these matters that we have not had a shot at in  
14 cross-examination on either.

15 THE COURT: Well, you want me to consider  
16 your affidavits. I am not quite clear what point this is.  
17 Mr. Helms has made certain affidavits as to what people were  
18 told.

19 You question his veracity; is that it?

20 MR. RASKAUSKAS: I am not making any comment  
21 on his veracity. Our position is that the affidavits are  
22 conclusory suppositions.

23 THE COURT: Well, all right. They are  
24 perfectly good points. They are perfectly good points  
25 that you make, that they do not tend to prove it, but then

1       you get into a question of how he was--

2               MR. CONNOLLY:    Can I refresh Your Honor's  
3       recollection?

4               THE COURT:    I thought the matter had been  
5       worked out in a way that the statement was accepted as the  
6       equivalent of an affidavit.

7               MR. CONNOLLY:   May I refresh your recollection?  
8       It is page 41 of the transcript, Your Honor, or  
9       rather excuse me, 47 .

10              (Transcript was handed to the Court.)

11              THE COURT:    Well, I understand.    The point  
12       was made that they had no right to say what was secret or  
13       what was not secret.

14              Now, has the Government concluded that it is  
15       asserting that Raus was paid but will not say how he was  
16       paid?    I just do not understand that whether he was on  
17       the--you have disclosed that he was acting as your agent,  
18       so I do not understand, and you are saying that he was paid,  
19       and there is some other testimony as to what he was paid,  
20       and there was no objection to his saying that he got certain  
21       amounts from the Bureau of Public Roads and he got certain  
22       amounts from his Army service.

23              Why should not the Government say, if you say  
24       he was paid for what he was doing, why shouldn't you--if you  
25       are willing to stand on the point whether he was paid or not

1 is immaterial, whether he was paid or not for services on  
2 behalf of the CIA, then I will have a clean question to  
3 decide, and if you decline to say whether he was paid, then  
4 you will just have to stand on the basis and the Court will  
5 assume that that fact is disputed.

6 I think you can claim privilege but I do not  
7 see how you can make statements of fact like that and say,  
8 "We will go up to this point and then stop."

9 MR. MARONEY: Well, Your Honor, the statement  
10 was made to that point only in response to an inquiry as to  
11 whether or not that could be made, that statement could be  
12 made on the record, as I understand it.

13 THE COURT: Well, you say can be made. Well,  
14 I am doubtful whether I can accept it because if he was paid  
15 through another agent, if he was given something by another  
16 agent, I can see that you are entitled to the privilege.

17 If he was paid, if you say he was paid  
18 through the Bureau of Public Roads it seems to me that is  
19 between you and Congress and Comptroller General. I do  
20 not see why it is a matter of privilege. I do not see how  
21 there can be any privilege.

22 MR. MARONEY: As I understand it, Your Honor,  
23 the method of payment, Mr. Houston advises me that the  
24 method of payment has classified aspects, and we are  
25 unwilling to go beyond the statement previously made, that

1 from the executive privilege standpoint the Government is  
2 forced to take that position.

3 THE COURT: The benefit of privilege. The  
4 method of payment has some classified aspects.

5 MR. CONNOLLY: Your Honor, 403 g gives the  
6 answer.

7 THE COURT: "In the interests of the security  
8 of the foreign intelligence activities"--50 United  
9 States Code, Section 403 g.

10 "In the interests of the security of the  
11 foreign intelligence activities of the United States  
12 and in order to further implement the proviso of  
13 Section 403 (d) (3) of this title that the Director  
14 of Central Intelligence shall be responsible for  
15 protecting intelligence sources and methods from  
16 unauthorized disclosure, the Agency shall be exempted  
17 from the provisions of Section 654 of Title 5, and  
18 the provisions of any other law which require the  
19 publication or disclosure of the organization,  
20 functions, names, official titles, salaries, or  
21 numbers of personnel employed by the Agency:  
22 Provided, that in furtherance of this section, the  
23 Director of the Bureau of the Budget shall make no  
24 reports to the Congress in connection with the Agency  
25 under Section 947 (b) of Title 5."



1           That is what I guess this morning's paper is  
2           talking about, isn't it?   That Congress, that one of the  
3           Senators was a little disturbed about some of those people.

4           Well, I am not sure that it applies.   It may  
5           or may not; but when you say that he was paid, that you are  
6           willing to say that he was paid but are not willing to say  
7           whether he was paid by your Agency or by some other agency.

8           MR. MARONEY:   That is right or the method of  
9           payment.

10          THE COURT:   Or the method of payment.   Then  
11          I suppose I have a minor question to decide as to whether I  
12          can consider your statement that he was paid because it is  
13          not subject to cross-examination.

14          I am not sure that is fatal to the defendant's  
15          position, but I have got to decide whether it can be  
16          considered or not.

17          As I understand it, they will not go any  
18          further so I think the issue is sharply drawn, and it is a  
19          point for decision.

20          MR. CONNOLLY:   To refresh Your Honor's  
21          recollection a little bit further, you will also recall  
22          that Mr. Raus testified to that also under oath; so to the  
23          extent that an oath is missing it was supplied by Mr. Raus,  
24          the same language that Mr. Houston alluded to.

25          THE COURT:   That he was paid directly.

1 MR. CONNOLLY: Directly or indirectly.

2 THE COURT: Yes.

3 MR. RASKAUSKAS: I do not remember that.

4 MR. CONNOLLY: Yes, Your Honor. I will be  
5 happy to show you if I can.

6 THE COURT: All right, show it to me.

7 MR. PRETTYMAN: That is at transcript 51 and  
8 52.

9 MR. CONNOLLY: "You heard what Mr. Houston  
10 said."

11 Mr. Raus said, "Yes, sir.

12 "The Court: Is that true?

13 "The Witness: Yes, Your Honor."

14 THE COURT: Who asked the question?

15 MR. CONNOLLY: You did, Your Honor.

16 THE COURT: I can't blame the plaintiff's  
17 lawyers for that then.

18 MR. CONNOLLY: "All right, the question is,  
19 well, in view of the instructions they have given  
20 him that he was paid indirectly by CIA during the  
21 time in question I will allow since CIA said it,  
22 you may ask him if that is--since Mr. Houston has  
23 said it, you may ask the defendant if that is true  
24 and just let him answer yes or no.

25 "The Court: You heard what Mr. Houston said.

1 "The Witness: Yes, sir.

2 "The Court: Is that true?

3 "The Witness: Yes, Your Honor."

4 THE COURT: Did I ask the question? I said  
5 I thought they might ask.

6 MR. RASKAUSKAS: No, sir, Your Honor asked  
7 that and then Your Honor advised me:

8 "You understand I am giving you your exception?  
9 You have exceptions without taking them."

10 And I said, "Yes, Your Honor," but we objected  
11 right along the line.

12 THE COURT: With respect to being able to go  
13 further.

14 MR. RASKAUSKAS: Yes, Your Honor.

15 THE COURT: I understand. The thing is, did  
16 you adopt the Court's question or not? Up to that point  
17 did you want that much?

18 MR. RASKAUSKAS: No, we did not. Now, we  
19 did not want that. We objected to that.

20 THE COURT: I think you should not be held to  
21 adopting the Court's question.

22 MR. CONNOLLY: I adopt it.

23 THE COURT: What is that?

24 MR. CONNOLLY: I adopt it.

25 THE COURT: Well, I have got to rule then

1 whether without cross-examination--

2 MR. CONNOLLY: Well, you see I would have  
3 had the right of cross-examination, Your Honor. I did not  
4 put that question since it was already in the record.

5 THE COURT: Well, you could not have gotten  
6 that, but you would have had the same objection because  
7 they will not let him say how.

8 MR. CONNOLLY: Yes, but I want to go that  
9 far, Your Honor.

10 THE COURT: Yes.

11 MR. CONNOLLY: I want to go that far.

12 THE COURT: All right.

13 MR. RASKAUSKAS: Or he could put in a fifth  
14 affidavit of Mr. Helms.

15 MR. CONNOLLY: I do not have to because under  
16 the rules I can use any part of a deposition. If you do  
17 not take all of it, if you leave out a part which I am  
18 entitled under the rules to use, I can use the part that you  
19 do not use, and if you do not care to use it, if you do not  
20 care to use this language on page 51 and 52, I do.

21 THE COURT: Well, on summary judgment I can  
22 consider whatever the Court feels is proper, and I will  
23 indicate when I have considered something in over objection  
24 it will mean that I have overruled the objection.

25 I do not know how many of those occasions

1       there will be, but you will have your points at any rate.

2               All right.    Then, there is this Tammark  
3       business.

4               Then, there is a letter from Jeremiah C.  
5       Collins to the Court.

6               What is the point about that?

7               MR. RASKAUSKAS:   That was on a question of  
8       good faith, Your Honor, where they asked that this case not  
9       be called for trial.   Mr. Collins of the firm of Hogan &  
10      Hartson wrote a letter to the Court explaining that they  
11      had to answer all these interrogatories, and so on and so  
12      forth, and then subsequently about a month after that letter  
13      they came up with this new defense and never answered the  
14      interrogatories.

15              So we feel that letter is very relevant on  
16      the question of good faith.

17              THE COURT:   Well, then, its relevancy and  
18      immateriality is objected to, and you are not objecting to  
19      the competency of Collins?

20              MR. CONNOLLY:   No, Your Honor, and in order  
21      to sharpen the issue before the Court if Mr. Raskauskas  
22      wants that portion of Mr. Tammark's letter in which it says  
23      that Mr. LaVenla told Mr. Tammark that he talked to thirty-  
24      three witnesses all over the United States and Canada I do  
25      not have any objection to that going in; but I do have the

1 objection of a lot of conclusions and self-serving matters  
2 that Mr. Temmark has in his letter which even if it was  
3 under oath would not be admissible.

4 THE COURT: It might not be admissible but it  
5 might be enough because he says it is a question of  
6 relevancy and materiality.

7 MR. CONNOLLY: And competency there, Your  
8 Honor. For example, a man who draws opinions and conclu-  
9 sions which he is not permitted to give an opinion or  
10 conclusion as to what Mr. Haine is or is not even if he were  
11 here on the witness stand, he would not be permitted to do  
12 that.

13 THE COURT: Well, what you are saying is that  
14 so far as the position is concerned the Court has to assume  
15 that he was slandered, don't I, for the purpose of this  
16 motion?

17 MR. CONNOLLY: Yes.

18 THE COURT: I have to assume the truth of  
19 the plaintiff's claim.

20 MR. CONNOLLY: Correct.

21 THE COURT: The truth of the statements for  
22 the purpose of this motion for summary judgment.

23 "Shall show affirmatively that the affiant  
24 is competent to testify to the matters stated therein."

25 Of course, I will have to pass on when this

1 letter is turned into an affidavit, what Mr. Connolly is  
2 saying, whether it is a letter or whether it is an affidavit,  
3 it must meet the test of (e).

4 Well, I will just have to pick and choose of  
5 what is properly admissible and what I consider relevant  
6 and material on any issue that is to be an issue in the  
7 case at this time.

8 Then some more points and authorities, and  
9 then this affidavit and the question of little difficulties  
10 between counsel.

11 MR. RASKAUSKAS: That is not relevant to the  
12 motion, Your Honor.

13 THE COURT: I do not think so at the moment.

14 MR. CONNOLLY: I suggest the motion and the  
15 motion to amend the amended answer, Your Honor.

16 THE COURT: Where is that? What was the  
17 date of that? Do you have that?

18 Well, here is a motion to amend the answer.

19 MR. CONNOLLY: Yes.

20 Yes, and your order permitting it.

21 THE COURT: And the order.

22 MR. CONNOLLY: The order is dated March 21st.

23 THE COURT: Yes.

24 MR. CONNOLLY: I am not sure it was dated  
25 March 21st, but it was mailed March 21st.

1 THE COURT: Yes. Then, there is Mr. Helms'  
2 affidavit based on the papers attached to them, and I guess  
3 the motion for a protective order, and that is as far as it  
4 may have any bearing on it, and then another affidavit from  
5 Mr. Helms and the amended answer.

6 Then, the supplementary memorandum of points  
7 and authorities in opposition to defendant's motion for  
8 summary judgment.

9 Now, that is argument again except that there  
10 is attached to that these various letters.

11 MR. CONNOLLY: What letter are you speaking  
12 of?

13 THE COURT: I think there are five letters.  
14 First there is the letter of 18th of December '63 from  
15 Hoover to Landra.

16 MR. RASKAUSKAS: Your Honor, that is already  
17 testified to in the deposition of Mr. Heine, and I think Mr.  
18 Connolly will agree to that.

19 THE COURT: Well, you need not worry about it.  
20 I do not suppose there is any question of competency.

21 MR. CONNOLLY: There is a document, a very  
22 material document that is missing, namely, the letter which  
23 prompted this reply; and if Mr. Raskauskas will supply that  
24 then I have no objection.

25 MR. RASKAUSKAS: Mr. Landra's letter? I think



1 I have that. I will look for it, Your Honor. I am quite  
2 sure I have it, and it was identified as an exhibit in the  
3 deposition, if I am not mistaken.

4 THE COURT: Well, you would add, it is  
5 agreeable if Landra's letter to Hoover is included?

6 All right.

7 MR. CONNOLLY: Also, Your Honor, I did not  
8 know we were getting into this, but we also have a letter  
9 from Mr. Hoover to Mr. Raus.

10 THE COURT: Yes.

11 MR. CONNOLLY: Two of them.

12 THE COURT: Yes.

13 MR. CONNOLLY: I do not think I have Mr. Raus'  
14 letter that prompted that reply. I have no objection if  
15 the Raus letter which went to Mr. Hoover to which the Hoover  
16 letter purports to be a reply was also put in evidence.

17 THE COURT: Do you have that?

18 MR. CONNOLLY: I do not have it with me, Your  
19 Honor. I can get it, and I had no idea we were to take up  
20 these matters because like you I did not think these were  
21 before the Court, and I really do not think they have any  
22 materiality whatsoever to this motion.

23 And so I do not suggest that Your Honor delay  
24 consideration of the motion on account of it.

25 THE COURT: If they can be stipulated and

1 added, I think I want to get the record complete and not  
2 have a motion for reconsideration by one side or the other  
3 because something was not included that should have been  
4 included. I want to try to clean it up.

5 Now, then, the letter of May 10, '63 from  
6 Hoover to Raus.

7 MR. CONNOLLY: Do I have an agreement from  
8 Mr. Raskauskas, Your Honor?

9 THE COURT: You mean on these other two  
10 letters that you are going to supply one letter and he is  
11 going to supply one letter to round out the correspondence;  
12 is that it?

13 MR. CONNOLLY: Well, I said that I would be  
14 willing to accept these as part of the record if Mr.  
15 Raskauskas would agree that that may be done. I have not  
16 heard his response to that.

17 MR. STANFORD: We will agree to that, Your  
18 Honor.

19 THE COURT: All right. That is fine. Then,  
20 this letter of the 10th--I am not clear what materiality  
21 this letter to Hoover--

22 MR. RASKAUSKAS: Well, we think it is  
23 relevant on the question of a purported CIA dispatch  
24 operative writing letters to Mr. Hoover asking him about  
25 whether he gives clearances or nonclearances, and we are

1 very interested in seeing that letter. That was Mr. Hoover's  
2 response.

3 THE COURT: That is a letter of April 6, '64.

4 MR. RASKAUSKAS: Yes.

5 THE COURT: He is talking about the one in  
6 which they talk about "Masters of Deceit."

7 MR. RASKAUSKAS: Yes.

8 THE COURT: I did not see the point of it  
9 when I read it.

10 MR. RASKAUSKAS: With respect to the relevancy  
11 to the April '63 letter?

12 THE COURT: No, no. No, I am not talking  
13 about that. That is a different one.

14 MR. RASKAUSKAS: Of the May '63 letter?

15 THE COURT: Yes, the May '63 letter. Well,  
16 you know what it is.

17 MR. RASKAUSKAS: Yes, I remember it. That  
18 is the one from Mr. Hoover discussing his book.

19 THE COURT: Yes, that is right.

20 MR. RASKAUSKAS: On communism.

21 THE COURT: That is right.

22 MR. RASKAUSKAS: Well, we thought at the time  
23 and still think that some facts can be developed to show  
24 that perhaps Raus was trying to make a contact to be used  
25 by the FBI and got turned down.

1 THE COURT: I do not see the materiality of  
2 that on this present motion. There is no doubt I gather  
3 that this letter--do you know what this letter is?

4 MR. CONNOLLY: You mean the one where he  
5 talked about--

6 THE COURT: Yes, Mr. Hoover--

7 MR. CONNOLLY: The complimentary letter?

8 THE COURT: No, I have not got the  
9 complimentary letter, but we have Mr. Hoover's reply, which  
10 is certainly no secret.

11 MR. CONNOLLY: Certainly; no objection to  
12 that.

13 THE COURT: Now, the next is a letter--I am  
14 not clear what it is. This is from Meeme Malgi. Is that  
15 it?

16 MR. STANFORD: Meeme Malgi, I think it is.

17 THE COURT: Meeme Malgi. What is it? What  
18 is it about? In the first place it is practically  
19 illegible, and does it have any materiality?

20 MR. RASKAUSKAS: There is a translation with  
21 it, Your Honor.

22 THE COURT: No, I do not mean the one, I do  
23 not mean the one in Estonian, but I mean the one in--

24 MR. RASKAUSKAS: The letter of transmittal.

25 THE COURT: I guess that is just a letter of

1 transmittal.

2 MR. RASKAUSKAS: That letter of transmittal  
3 is not relevant, Your Honor.

4 THE COURT: Well, I do not think it makes any  
5 difference except it vouches for--does Mr. Raus deny that he  
6 sent this letter?

7 MR. CONNOLLY: I have not taken it up with  
8 him, Your Honor. I do not know the accuracy of the  
9 translation, sir; so I must interpose an objection.

10 THE COURT: You say you are?

11 MR. CONNOLLY: Yes, sir.

12 THE COURT: Well, why not? Isn't he here?

13 MR. CONNOLLY: No, sir.

14 THE COURT: Well, why don't we find out? I  
15 mean, they can turn that into an affidavit if it was  
16 received, but I certainly would allow him to say, to be  
17 asked whether he sent this letter.

18 MR. CONNOLLY: Certainly I question the  
19 translation, Your Honor. I can't vouch for the accuracy  
20 of the translation.

21 THE COURT: Well, if he is available why don't  
22 you check with him, and if the translation is accurate we  
23 can consider it for what it is worth?

24 MR. CONNOLLY: And I will be happy to get him  
25 to provide his own translation.

1 THE COURT: All right, provide his own  
2 translation, and we will have two and if I feel it is of  
3 sufficient importance I will pick a neutral translator. I  
4 may not think it is sufficiently important, and there may not  
5 be that much difference between the two versions.

6 All right. This is the letter of Raus--well,  
7 the letter is just addressed to "comrade." It is not  
8 addressed to anybody.

9 At any rate, it is a question of sending a  
10 letter to "comrade" and I suppose that is the question, and  
11 that is where the letter comes from because otherwise it  
12 does not say to whom it was written.

13 Now, then, we have the claim of privilege, and  
14 the supplemental memorandum of the defendant, which again is  
15 argument.

16 There is the deposition of Raus. The deposition  
17 of Heine is not before me, the plaintiff.

18 The deposition which the defendant took of  
19 Heine has not been filed.

20 MR. RASKAUSKAS: Yes, Your Honor.

21 THE COURT: Has it been filed with the Court?  
22 Is that supposed to be before me?

23 MR. RASKAUSKAS: Yes, Your Honor. That is  
24 924 pages of testimony.

25 THE COURT: I am supposed to read that as part

1 of the motion for summary judgment? Will you point out  
2 the portions that you want me to read, that you are relying  
3 on or that you feel are important so that I do not get  
4 bogged down?

5 MR. STANFORD: I think that they will be  
6 brought out during the hearing, Your Honor.

7 THE COURT: All right.

8 MR. STANFORD: And I think that we can point  
9 out at a later time the specific areas if we reach that  
10 today.

11 THE COURT: All right.

12 Then, there is this letter or notice of the  
13 taking of the deposition of LaVenia. Is LaVenia's deposi-  
14 tion to be before the Court?

15 MR. RASKAUSKAS: Well, it has been unsigned,  
16 Your Honor, and I understand from Mr. Connolly that he wants  
17 to read it and sign it.

18 MR. CONNOLLY: He is right.

19 THE COURT: Well, I say, once that has been  
20 done, is it to be considered before the Court at this time  
21 on the motion or is it not to be considered before the Court  
22 on the motion?

23 MR. CONNOLLY: I am at a loss to understand  
24 what possible relevancy there is in that deposition. The  
25 man said he had no knowledge whatsoever as to whether Mr.

1 Raus was working for CIA or was not working for CIA.

2 THE COURT: Well, I do not know since I have  
3 not seen it I have even less idea of what relevancy it may  
4 have.

5 Does either side want me to consider it?

6 MR. RASKAUSKAS: Yes, Your Honor.

7 THE COURT: Well, then, we will have to wait  
8 until he has signed it and it has gotten sent in. The  
9 deposition of LaVenla--

10 MR. CONNOLLY: I hope during the course of  
11 these remarks Mr. Raskauskas would illuminate for all our  
12 benefit just how that deposition becomes material.

13 MR. RASKAUSKAS: I will be delighted to do  
14 that.

15 THE COURT: All right.

16 Then, we have the notice which was filed on  
17 the 3rd of May by Mr. Raskauskas and Mr. Stanford stating  
18 that they were going to take some procedures in accordance  
19 with Section 16 of Executive Order No. 10501.

20 I understand that whatever was done--well,  
21 suppose you make your statement on that. Is that to be  
22 before me or to be considered by me?

23 MR. STANFORD: No, Your Honor, that is not to  
24 be considered by the Court on this motion.

25 THE COURT: All right, and then these two



1 new affidavits are to be considered.

2 MR. STANFORD: Yes, Your Honor.

3 THE COURT: And the minutes attached to it  
4 are part of the affidavit. Now, does the defendant want  
5 to--the defendant said that they had another version of the  
6 minutes, but I do not see that you gain anything by putting  
7 it in.

8 MR. CONNOLLY: No, sir.

9 THE COURT: Well, we seem to have accumulated  
10 a record. That is about all we have done so far. I think  
11 we understand now what is before the Court.

12 Does anybody want to put anything else in the  
13 record?

14 MR. STANFORD: Not at this time, Your Honor.  
15 I do not think we could add anything to what has been  
16 presented.

17 THE COURT: Do the defendants want to put  
18 anything in?

19 MR. CONNOLLY: Nothing, Your Honor, other  
20 than the two documents I said I wanted.

21 MR. RASKAUSKAS: What?

22 MR. CONNOLLY: The two letters.

23 THE COURT: Well, we get down then, I suppose,  
24 now to something between the plaintiff and the defendant.

25 Does the Government have anything more it

1 wishes to say?

2 MR. MARONEY: No, Your Honor. We have no--  
3 we are not here in the role of advocating the motion on  
4 behalf of the defendant. I think it should be made clear  
5 that our role has been limited to being here for the  
6 purpose of authenticating, so to speak, the affidavits  
7 which have been submitted on behalf of CIA and also to  
8 represent the CIA in connection with the claim of executive  
9 privilege, and, of course, we have taken no position with  
10 respect to the merits of the motion pending.

11 THE COURT: That is right.

12 Well, I think it would be well to have a  
13 clarification at this time now that we know what the record  
14 is, exactly what points each side is making.

15 The defendant is making a motion for summary  
16 judgment, but the motion was made before, or the motion  
17 originally was made before claim of privilege was put in;  
18 so some of the argument about the insufficiency of the  
19 claim of privilege has probably been washed out. Now,  
20 however, the claim has been made by the Government, and  
21 some of the things we have said are no longer--

22 MR. STANFORD: Some of the things have been  
23 removed, Your Honor, but we believe that there are still  
24 many defects in form which we will bring out.

25 THE COURT: All right. Now, you have not

1 filed anything since the claim of privilege by the  
2 Government. Do you have a brief with you today that you  
3 are going to file or you say there are still some defects  
4 that you will bring out? Is this to be done entirely  
5 orally or what?

6 MR. RASKAUSKAS: Yes, Your Honor. I antic-  
7 ipated that we would proceed today with counsel for the  
8 defendant arguing their motion, and then Mr. Stanford and  
9 myself would respond to it.

10 I believe in the course of my response I expect  
11 to make a speaking motion under the rules, and if Your Honor  
12 cares to consider the motion in that fashion I think that we  
13 can have a more orderly procedure.

14 THE COURT: You mean to let them argue first  
15 and you make a speaking motion as part of the argument?  
16 Why not have the whole motion first and let's see where we  
17 are?

18 MR. RASKAUSKAS: Then I will just say briefly  
19 and I will argue the motion later, but I would like to make  
20 a speaking motion at this time under Rule 56(f), and I would  
21 like to read the salient part of the rule:

22 "When affidavits are unavailable. Should it  
23 appear from the affidavits of a party opposing the  
24 motion that he cannot for reasons stated present by  
25 affidavit facts essential to justify his opposition,

1 the Court may refuse the application for judgment  
2 or may order a continuance to permit affidavits to  
3 be obtained or depositions to be taken or discovery  
4 to be had or may make such other order as is just."

5 Now, I did not think it was necessary to file  
6 a motion and affidavit under 56 (f), bring them to the  
7 attention of the Court where the information is not  
8 available because as the Court observed this because of the  
9 peculiar circumstances of this case.

10 When Mr. Raus gave his deposition here in open  
11 court, I think the Court can take notice of the fact that  
12 we are very strictly proscribed in the area, the factual  
13 area, that we want to develop.

14 So we are asking not for more time to get  
15 affidavits or to take depositions but we are asking under  
16 the last part of that rule that the Court make such other  
17 order as is just, and that order, we are moving, is to have  
18 as full and complete a hearing on the matters, particularly  
19 this first defense of official immunity, in as full a trial  
20 as is possible; that in cases, and there are many  
21 authorities which we can cite, when the crucial facts are  
22 largely within the knowledge or control of the moving  
23 parties, and the plaintiff does not have the opportunity  
24 for cross-examination, the Court does not have the  
25 opportunity to observe the demeanor of witnesses, in cases

1 where there are great and complex legal questions involved,  
2 it is a sounder policy to permit the matter to go to trial  
3 so that as many possible facts as can be developed are  
4 brought out.

5 So we think that this is an appropriate  
6 application of Rule 56 (f), that the Court enter an order  
7 denying the motion for summary judgment and permitting this  
8 matter to go to trial so that all possible facts in this  
9 case can be developed and that so these affidavits which  
10 have been submitted, that we may have the witness and place  
11 these statements in the crucible of cross-examination and  
12 see what can be developed in the interest of arriving at  
13 the truth.

14 THE COURT: Well, let's see. What do you  
15 understand the issues to be here? The Government has  
16 certainly claimed privilege or the Government has asserted  
17 its privilege, has it not?

18 MR. RASKAUSKAS: Yes, sir.

19 THE COURT: Now, if the Government has  
20 asserted its privilege, the question is, where do we go from  
21 there, or what remains open?

22 MR. STANFORD: Your Honor, we feel that that  
23 particular area does not have any effect whatsoever on  
24 Rule 56, and we feel that the proper procedure in this case  
25 would be to have the defendant in this case, who is the

1 moveant with regard to summary judgment, state the points  
2 for his motion, to state the points for his argument, and  
3 we will meet or answer the points that he brings up on the  
4 objections which we have set forth in our memorandum.

5 THE COURT: Well, do you have any new brief  
6 or not?

7 MR. CONNOLLY: No, Your Honor, I tried as best  
8 I know how to state my position precisely and simply in the  
9 supplemental memorandum which was filed at the time of the  
10 last hearing.

11 THE COURT: Well, how long do you want? It  
12 is now four o'clock. How long does each side want to argue?

13 MR. CONNOLLY: I think I can state my opening  
14 position in fifteen minutes.

15 THE COURT: All right. We had a very long  
16 hearing this morning. The question is whether we could do  
17 any better, to let each side state its position and then  
18 supplement it with written memoranda. I would like to know  
19 each side's position, at least to get that part of it, which  
20 may or may not produce the need for some further development  
21 by brief.

22 MR. CONNOLLY: I take it, Your Honor, that Mr.  
23 Raskauskas and Mr. Stanford really do not dispute Barr vs.  
24 Matteo and Howerd vs. Lyons. As I understand their position,  
25 and I am presenting this just to find out how far we can

1 simplify the argument, as I understand their position they  
2 say that it is the burden of the moveant in this case, Juri  
3 Raus, to produce facts which would bring him within the  
4 doctrine of Barr vs. Matteo, and they say that Mr. Raus,  
5 perhaps through his own fault, perhaps through no fault on  
6 his part, is unable to provide that information because  
7 such information as he does provide is not subject to  
8 cross-examination, and therefore the Court should reject  
9 the offers of proof which he makes, and since he cannot on  
10 his own efforts bring himself within Barr vs. Matteo his  
11 motion must fail.

12 Now, that is what I understand the plaintiff's  
13 position to be. Maybe I have oversimplified it or  
14 understated it; but if that is so I think we can come very  
15 quickly to the point.

16 I do not like to ask counsel if I have  
17 accurately stated their position.

18 MR. RASKAUSKAS: Well, I object to that, to  
19 him stating my argument. I would rather state my own  
20 argument.

21 THE COURT: Well, he has a right to state  
22 your argument as he understands it.

23 MR. RASKAUSKAS: I would rather do it.

24 THE COURT: Well, he is stating your argument,  
25 if that is the way he wants to argue his case, he can.

1 I had asked him what his position was, not  
2 what his understanding of your position was. Do you have  
3 any points other than the weakness of the plaintiff's  
4 points?

5 MR. CONNOLLY: Certainly, Your Honor. I was  
6 trying to shorten the argument if I could.

7 THE COURT: Well, all right, because I want  
8 to know what your points are because--

9 MR. CONNOLLY: Yes, my position is--

10 THE COURT: Because it is not clear to me.

11 MR. CONNOLLY: My position is, Your Honor,  
12 that at the time Mr. Raus spoke, on those occasions about  
13 which complaint was made, that he was on each occasion an  
14 employee of the United States of America; that he was acting  
15 in the scope and course of his employment; and he was  
16 following instructions--

17 THE COURT: Wait a minute. Let's see. He  
18 was an employee of the U.S. That is your first point?

19 MR. CONNOLLY: Yes, sir. That is right,  
20 Your Honor.

21 THE COURT: And second that he was--

22 MR. CONNOLLY: Acting within the scope of his  
23 duties and in the course of his employment; and that in  
24 speaking of the plaintiff, as he did--

25 THE COURT: Well, now, you say--all right.



1       Go ahead.

2               MR. CONNOLLY:   He was executing or performing  
3       the instructions that were given him by his employer, to  
4       wit, the United States of America, and specifically Central  
5       Intelligence Agency.

6               Now, I say that if I establish those facts,  
7       one, general employment, and two, that he was carrying out  
8       orders and what he did was pursuant to orders, that I am  
9       entitled to rely on the principles enunciated by the Supreme  
10      Court in Barr vs. Matteo and in Howard vs. Lyons reported  
11      in 360 U.S., both opinions decided the same day, June 29,  
12      1959.

13              And I rely on a number of cases that have been  
14      decided by all of the Circuit Courts since that time, and  
15      which are set forth in my previous memorandum in support of  
16      my motion.

17              THE COURT:    I would say that if you show that,  
18      I do not suppose that there is any serious dispute that when  
19      you spoke you were acting as an employee of the United  
20      States, acting within the scope and duties of his employment,  
21      and that when he spoke he was acting under orders, I do not  
22      know whether they tell him the legal conclusion or they tell  
23      him the premise.

24              Which do you tell him, the legal conclusion  
25      or the premise or both?

1 MR. STANFORD: Your Honor, if it can be  
2 shown by the defendant that in all the instances as alleged  
3 by the plaintiff's complaint that he was actually an  
4 employee of the Central Intelligence Agency and that he was  
5 working within the scope and course of his employment, we  
6 can't argue with the fact that Barr vs. Matteo does provide  
7 a governmental immunity. But that is not the basis of our  
8 position.

9 THE COURT: No, now you have shifted the  
10 ground once more. You said that he was acting as an  
11 employee of the CIA, and the defendant says an employee of  
12 the United States. Now, there is the first clear issue.

13 MR. STANFORD: Well, if they want to make an  
14 issue over the fact whether he was an employee of the  
15 Bureau of Public Roads, that he was fulfilling his duties  
16 as a highway research engineer.

17 THE COURT: No, of course, it is not that.  
18 They say that he is, or they say that he was an employee  
19 of the United States and had been given these duties by the  
20 CIA. They have said also, I think, that he was an  
21 employee of the CIA. I do not know whether they have said  
22 that he was paid, that he was an employee--have you said he  
23 was an employee of the CIA or have you said that--

24 MR. CONNOLLY: I made that contention, Your  
25 Honor.

1 MR. STANFORD: I think that is the contention  
2 that is made, Your Honor, but there is no affidavit or  
3 statement as to that fact. There are statements that he  
4 was an employee.

5 THE COURT: It is not quite clear to me how  
6 they establish that he--he was certainly an employee of the  
7 United States. There is certainly a statement that he was  
8 acting for the CIA when he did this. The head of the CIA  
9 says that and then says you can't go beyond that in making  
10 inquiry into details.

11 MR. PRETTYMAN: May I say this, Your Honor?

12 THE COURT: Yes.

13 MR. PRETTYMAN: May I say in answer to that  
14 that in Mr. Helms' affidavit of April 1, 1966 he made  
15 several points in connection with that:

16 "Concurrently with his duties on behalf of  
17 the Bureau of Public Roads the CIA has employed Mr.  
18 Raus from time to time to carry out specific  
19 assignments on behalf of the Agency, but further that  
20 he was so employed on the occasions specified in the  
21 complaint."

22 He states that in that affidavit.

23 THE COURT: Well, he states that. He states  
24 that but what they say is that the Government will not let  
25 him be cross-examined on that.

1 MR. PRETTYMAN: Well, that is a different  
2 point, Your Honor.

3 THE COURT: And therefore that they do not  
4 have to accept that statement and that the Court can't  
5 accept it because it is unfair to allow that to be accepted  
6 without any cross-examination.

7 MR. PRETTYMAN: Well, that is a separate  
8 point, Your Honor. I thought you were raising the question  
9 of whether it had actually been sworn to that he was an  
10 employee.

11 THE COURT: Well, are you saying that it is  
12 important, is it important to you that he be an employee of  
13 the CIA because I may say that that is not beyond dispute  
14 on this record.

15 MR. PRETTYMAN: Well, we say that the record  
16 is undisputed on the fact that he was in fact an employee  
17 in their employ.

18 THE COURT: Well, I know, but they bring up  
19 56 (f), they dispute the fact. It is disputed, and since  
20 you say you will not let them develop their facts on it it  
21 may be a case under 56 (f).

22 I am not sure, I am not sure either way; I  
23 have an open mind completely on whether you have shown that  
24 he was an employee of the CIA within the meaning of Rule 56  
25 of summary judgment procedure.

1 MR. PRETTYMAN: One thing we did say, Your  
2 Honor--

3 THE COURT: I think you have certainly shown  
4 he was an employee of the United States. That is really  
5 not disputed; but they would dispute whether it was within  
6 the course of his duties.

7 Now, this is a brand-new point. So far as I  
8 know there is no authority anywhere near this subject in the  
9 United States of whether an espionage agent or an  
10 intelligence agent who is on the payroll of the Government  
11 in one capacity who is asked to do some work on the other  
12 can have these matters inquired into or whether at some  
13 point the statement of the head of the agency is sufficient.

14 So I am not quite clear what you, what the  
15 plaintiff thinks they can accomplish by cross-examination.

16 MR. STANFORD: Your Honor, there never has  
17 been a statement here except by counsel, and by counsel's  
18 memorandum, that this man is or was an employee of the  
19 Central Intelligence Agency.

20 There are affidavits of Richard Helms, which  
21 have just been quoted by Mr. Prettyman, which says that he  
22 was employed. And we feel that Barr v. Matteo does not  
23 grant its provision of immunity to anyone who is paid money  
24 at some time to work as an independent contractor, as a  
25 contact, as an informer, as someone who is not under

1 supervision and control as an employee of the Central  
2 Intelligence Agency.

3 And I think that his being an employee is a  
4 very important matter with regard to the application of Barr  
5 vs. Matteo and Howard vs. Lyons.

6 All of the cases that they have quoted or  
7 cited consider persons about whom there was no dispute that  
8 they were employees, and in most cases highly ranked  
9 employees.

10 They themselves state that he was quote "a  
11 subordinate employee," and they state "Concurrently with  
12 his duties as a highway research engineer that he was  
13 employed or used."

14 THE COURT: Well, you say and query whether  
15 he was an independent contractor or informer and so forth  
16 are entitled to the privilege?

17 MR. STANFORD: Yes, sir.

18 MR. CONNOLLY: Well, Your Honor, for good or  
19 ill, I do not make the point, and I want Your Honor to  
20 clearly understand this, that I do not make the point that  
21 we are entitled to rely upon Barr vs. Matteo because Mr.  
22 Raus was within the general employ of the United States  
23 and was just a casual employee of CIA.

24 My point is based on the fact that the record  
25 shows that he was an employee of the CIA on those occasions

1 about which plaintiff makes complaint. Now--

2 MR. STANFORD: If I--

3 MR. CONNOLLY: Just a minute, sir. Let me  
4 finish.

5 I would like to direct Your Honor's attention  
6 to the first affidavit of Richard Helms, Paragraph 3:

7 "On those occasions specified in Paragraphs 5,  
8 6, and 7 of the complaint, the defendant, Juri Raus,  
9 was in possession of information furnished to him by  
10 the Central Intelligence Agency, and when he spoke  
11 concerning the plaintiff on such occasions he was  
12 acting within the scope and course of his employment  
13 by the Agency on behalf of the United States."

14 And may I come to the next affidavit?

15 THE COURT: Yes, but "in the course of his  
16 employment."

17 MR. CONNOLLY: By the Agency on behalf of  
18 the United States.

19 Now, let me finish all of them, Your Honor,  
20 so that--

21 MR. RASKAUSKAS: I think we have all read  
22 them, Your Honor.

23 MR. CONNOLLY: Do you mind my taking the  
24 time to argue, Mr. Raskauskas?

25 7 of the second Helms' affidavit:

1           "The Central Intelligence Agency has employed  
2           the defendant from time to time--concurrently with  
3           his duties on behalf of the Bureau of Public Roads--  
4           to carry out specific assignments on behalf of the  
5           Agency. Defendant was so employed on those  
6           occasions specified in Paragraphs 5, 6, and 7 of the  
7           complaint."

8           And then it goes on to say:

9           "On those occasions the defendant was  
10          furnished information concerning the plaintiff by  
11          the Central Intelligence Agency and was instructed  
12          to disseminate such information to members of the  
13          Legion so as to protect the integrity of the Agency's  
14          foreign intelligence sources."

15          Then the conclusion:

16          "Accordingly, when Juri Raus spoke concerning  
17          the plaintiff on the occasions about which complaint  
18          is made, he was acting within the scope and course  
19          of his employment by the Agency on behalf of the  
20          United States."

21          Then I come to Affidavit 3:

22          "Prior to those occasions specified in  
23          Paragraphs 5, 6, and 7 of the complaint in this  
24          action, the defendant, in a series of conferences,  
25          was furnished information by the Central Intelligence



1 Agency to the effect that Eerik Heine was a  
2 dispatched Soviet intelligence operative, a KGB  
3 Agent. The defendant was instructed to warn members  
4 of Estonian emigre groups that Eerik Heine was a  
5 dispatched Soviet intelligence operative, a KGB  
6 Agent. The purpose for this instruction was to  
7 protect the integrity of the Agency's foreign  
8 intelligence sources, existing within or developed  
9 through such groups, in accordance with the Agency's  
10 statutory responsibility to collect foreign  
11 intelligence and the statutory responsibility of the  
12 Director of Central Intelligence to protect foreign  
13 intelligence sources and methods. Accordingly,  
14 when Juri Raus spoke concerning the plaintiff on the  
15 occasions about which complaint is made, he was acting  
16 within the scope and course of his employment with  
17 the Agency on behalf of the United States."

18 THE COURT: Well, you say that you are not  
19 relying on the fact that he was an employee of the United  
20 States and was casually asked to do something for CIA?

21 MR. CONNOLLY: No, Your Honor.

22 THE COURT: That it was concurrent employment?

23 MR. CONNOLLY: Yes, sir.

24 THE COURT: And that this was part of the  
25 concurrent employment?

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MR. CONNOLLY: Yes, Your Honor.

THE COURT: Now, ordinarily if this were not--

MR. CONNOLLY: On specific assignment.

THE COURT: On specific assignment.

MR. CONNOLLY: And he was acting in this case under specific direction.

THE COURT: Now, if this were not a case in which the privilege has been asserted by the Agency, the privilege of secrecy asserted by the Agency they would be entitled to question whether he was indeed an employee of the Agency or was acting as an independent contractor on special assignment, you make the point. I do not know whether that point is good or not, but assuming the point is good, an independent contractor would not be entitled to the benefit of the privilege, they would ordinarily be entitled to go ahead with cross-examination by deposition both of Raus and Helms, I guess to check on the different points that are to be considered by a Court in determining whether a man is an independent contractor or an employee. I think that is the issue.

Now, one of the elements is, of course, payment, and you want to get in that he was paid directly or indirectly by the Agency without saying how.

I am not at all clear that I can accept that evidence that he was paid by the Agency directly or

1 indirectly as tending to prove that he was an employee  
2 rather than an independent contractor.

3 MR. CONNOLLY: There are a number of things  
4 about that, Your Honor.

5 THE COURT: Without having, without getting  
6 more specific information. It really is the method of  
7 payment, and I have forgotten, and I started with this more  
8 than forty years ago that I argued my first case whether a  
9 man was an independent contractor or an agent or an  
10 employee, an agent or employee, and I think the restatement  
11 of the law of Torts and agency and so forth both have set  
12 up certain standards, and one of them, I believe, is the  
13 method of payment.

14 MR. CONNOLLY: No, it is not, Your Honor. I  
15 have to disagree. It used to be that considerable emphasis  
16 was placed on who paid the man.

17 The Restatement today, and the reason I am  
18 expatiating on this was that I think these gentlemen will  
19 remember just last week the United States Court of Appeals  
20 for the District of Columbia Circuit decided a rather  
21 definitive case on this question, decided under Maryland  
22 law.

23 I do not think Maryland law should apply  
24 since we are in this federal area; but they mention one of  
25 the criteria being who paid him, but they say that this is

1 no longer of any significance, that the question is, and the  
2 only question is really involved is whose work is being done,  
3 and who has the authority to control the details in  
4 connection with the performance of the work.

5 THE COURT: The details of the work are--

6 MR. CONNOLLY: Yes, and so these other  
7 indicia that at one time existed are really meaningless.

8 THE COURT: Well, you say then you do not  
9 care about the payment.

10 MR. CONNOLLY: That is right, Your Honor.

11 THE COURT: You are willing to throw it out  
12 the window and we do not have to worry about it.

13 MR. CONNOLLY: Well, I think there is  
14 evidence that he was paid directly or indirectly by the  
15 Agency, and I think that is enough. I do not mean to throw  
16 that out too with the wash; but it is there.

17 THE COURT: Well, you say if I throw it out  
18 it is not withdrawn because the important thing is the right  
19 to control the details of the work.

20 MR. CONNOLLY: And whose work is being  
21 served, whose duty--

22 THE COURT: Wait a minute. I think we are  
23 going to have to have this written up because this is  
24 developing entirely differently from the way the briefs are  
25 up to this time, and we are getting various points which

1 are refined down and the issues narrowed.

2 MR. CONNOLLY: That is what I tried to say,  
3 Your Honor, when I started to say what I said before and  
4 Mr. Raskauskas accused me of arguing his case, but I think  
5 I understood fairly accurately to begin with that they  
6 really do not dispute the application of Barr vs. Matteo.

7 They just say that we have not put in  
8 sufficient evidence of a reliable nature in the record to  
9 support the contentions we make.

10 THE COURT: Well, that is what I thought.

11 MR. RASKAUSKAS: I do not want to interrupt  
12 Mr. Connolly but I would like to offer this comment. We  
13 have never conceded that the CIA has the statutory authority--

14 THE COURT: Oh, I understand that, that you  
15 are making the point that this is beyond the statutory  
16 authority.

17 MR. RASKAUSKAS: Yes, sir.

18 THE COURT: --of the CIA. I understand  
19 that point.

20 MR. RASKAUSKAS: And if that is correct Barr  
21 vs. Matteo cannot apply.

22 MR. CONNOLLY: I beg to disagree.

23 THE COURT: All right.

24 MR. CONNOLLY: But if it were a minor  
25 employee, he does not have to worry about the statutory

1 authority. That is the point.

2 THE COURT: That point is made in Mr.  
3 Connolly's last memorandum. I think it is his last  
4 memorandum, which has as yet not been answered.

5 Now, let's take a break and a recess from the  
6 formal record. We can't run much longer on the formal  
7 record. We can come back to that. Let's discuss how we  
8 are going to set this thing up most clearly.

9 (Discussion off the record.)

10 THE COURT: After a discussion off the record  
11 in which the respective parties refined their points to some  
12 extent the Court concluded that the following schedule  
13 should be established:

14 One, on or before May 23rd defendant will file  
15 a memorandum brief on the scope of the permissive activities  
16 in the United States of the CIA, the permissive activities  
17 of the CIA in the United States. This is an action in the  
18 United States, isn't it?

19 MR. CONNOLLY: Your Honor, I am not going to  
20 undertake the burden of outlining all the areas in the  
21 United States in which the CIA--

22 THE COURT: So far as they apply in this  
23 case?

24 MR. CONNOLLY: That is right.

25 That is right, just to defend this action.

1 THE COURT: That is right, so far as they  
2 apply to this case.

3 MR. PRETTYMAN: Can it also be made clear  
4 that we are not restricted to that point in the event that  
5 other--

6 THE COURT: Oh, you can write or to further  
7 elaborate on any additional points upon which defendants  
8 rely which are not stated in the supplemental memorandum  
9 of the defendant in support of its motion for summary  
10 judgment filed April 28, 1966.

11 That is, I will assume that the points, that  
12 I will not have to go wandering back in your other brief.  
13 This brief which is now to be filed plus the April 28th  
14 brief will be what I will look to to see the points you are  
15 relying on, and I will go back to the others for citations  
16 of cases.

17 Second, on or before June 23rd plaintiff will  
18 file a memorandum brief stating its position on all of the  
19 issues raised by the defendant and any additional issue  
20 which it wishes to raise such as the 56 (f) and things like  
21 that.

22 MR. CONNOLLY: What was that date, Your Honor?

23 THE COURT: June 23rd.

24 And then on or before July 23rd defendant  
25 will reply to plaintiff's memorandum.

1 Well, if it is a Saturday, the 22nd of July  
2 then.

3 On or before July 22nd, defendant will reply  
4 to plaintiff's memorandum and will state whether defendant  
5 wishes an oral argument on the issues.

6 Within one week thereafter, that is, on or  
7 before July 29th plaintiff will state whether he wishes an  
8 oral argument, and if oral argument is requested by either  
9 side it will be set on a date in the last week in August.

10 MR. STANFORD: Your Honor, there is one other  
11 thing of a minor nature. It is not minor entirely, but at  
12 least a much smaller consideration, and that is with regard  
13 to Mr. LaVenia's deposition which was taken on May 3rd, we  
14 intend to make a motion with regard to that to compel the  
15 answers to the questions which were objected to and which  
16 were not answered.

17 We would ask that we file our motion  
18 concurrently with our memorandum, and that that be extended  
19 and no time limit established, as there would be under the  
20 rules.

21 MR. CONNOLLY: Your Honor, I do not want to  
22 engage in a lot of colloquy or a lot of argument; but this  
23 deposition was a waste of time, and a motion to compel  
24 answers is again a waste of time, and is nothing more than  
25 to keep this thing stirred up, and I imagine it is probably



1 for the purpose of press coverage.

2 Mr. LaVenia has absolutely nothing to offer on  
3 the question of employment, as Your Honor will see from  
4 reading even a cursory study of the deposition.

5 Now, they want to find out what he found in  
6 his excursions around the countryside investigating the  
7 background of Eerik Heine. I took the position in his  
8 deposition, and properly so, that that is work product. In  
9 any event it is not material until after we get this motion  
10 for summary judgment ruled on.

11 MR. RASKAUSKAS: You took the position he is  
12 one of the lawyers in the case on the other side. That is  
13 what you are talking about?

14 MR. CONNOLLY: My position was stated then,  
15 Mr. Raskauskas, and it is in the record.

16 THE COURT: Well, you make your motion at the  
17 time, and Mr. Connolly can answer it along with his  
18 memorandum, and the Court will decide whether it should be  
19 ruled on before or contemporaneously or after the ruling on  
20 the motion for summary judgment.

21 Thereupon, the hearing concluded at 5:20  
22 o'clock p.m.

23 - - - - -

24 Certified to be a true and correct transcript  
25 of the proceedings in the above case.